

Resolved, That the Sergeant-at-Arms furnish the members of the Senate a copy each of Paschal's Digest of the Statutes, and also a copy to each Senator, of the new Constitution.

Adopted.

Senator Ford offered the following resolution:

Resolved, That the Sergeant-at-Arms be instructed to contract with the Capitol Ice Company for such daily supply of ice as may be required for the use of the Senate; at not exceeding two cents per pound.

Senator Grace moved to amend by striking out the words, "with the Capitol Ice Company."

Accepted.

The resolution, as amended, was then adopted.

The Secretary of the Senate was instructed to inform the House that the Senate is now organized and ready to proceed to business, and would receive any communication they had to make.

The President announced the following as the Committee on Revision of Rules of Senate:

Senators Thompson, Hobby, Smith, Northam, Stephens, Storey, McLeary, Brady, and Henry of Limestone.

Senator Hobby, Chairman Special Committee to inform the Governor of the organization of the Senate, reported that the Committee had performed the duty assigned them, and that the Governor would communicate with the Senate as soon as he received notice of the organization of the House.

On motion of Senator Ledbetter, the Senate, at 4:50 P. M., adjourned until 9 A. M., to-morrow.

SECOND DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, April 19, 1876. }

Senate met pursuant to adjournment. Roll called. Quorum present. Prayer by the Rev. Jno. L. Lovejoy, Chaplain elect of the Senate.

Journal of yesterday read and adopted.

The President then announced the following Standing Committees of the Senate for the present session:

STANDING COMMITTEES.

JUDICIARY No. 1.—Hobby, Chairman; Terrell, Storey, McLeary, Grace, Henry of Cass, Edwards, Ball, Ledbetter.

JUDICIARY No. 2.—Piner, Chairman; Thompson, Guy, Smith, Douglas, Stephens, Crain, McCormick.

CONSTITUTIONAL AMENDMENTS.—Smith, Chairman; Storey, McLeary, Thompson, Terrell, Edwards, Henry of Cass, Guy, Grace, Stephens, Piner, Hobby, Martin, Henry of Limestone.

EDUCATIONAL AFFAIRS.—Terrell, Chairman; Thompson, Francis, Brady, Hobby, McLeary, Wortham, Ball, Henry of Limestone, Brown, Storey, McCulloch.

INTERNAL IMPROVEMENTS.—Douglas, Chairman; McLeary, Edwards, Crain, Ford, Henry of Limestone, Ball, Terrell, McCulloch, McCormick, Brady, Martin, Wortham, Guy, Grace.

FINANCE.—Storey, Chairman; Terrell, Martin, Douglas, Brady, Guy, Hobby, Thompson, Smith.

PRIVATE LAND CLAIMS.—Edwards, Chairman; Grace, McCormick, Stephens, Motley, Francis, Henry of Cass, Ledbetter, Moore.

STATE PENITENTIARIES.—Thompson, Chairman; Guy, Ball, Piner, Martin, Francis, Motley, Carroll, Wortham, Henry of Limestone, Storey, Brown, McLeary.

STATISTICS OF INDUSTRY, PUBLIC HEALTH AND HISTORY OF TEXAS.—McCulloch, Chairman; Carroll, Moore, Blassingame, Martin, Ford, Francis, Ledbetter, Motley.

MILITARY AFFAIRS.—Grace, Chairman; Ford, Douglas, Brown, Ledbetter, Piner, Stephens.

PUBLIC LANDS.—Henry of Cass, Chairman; Henry of Limestone; Thompson, Carroll, Storey, Wortham, Guy, Ball, Brady, Motley.

STATE AFFAIRS.—McLeary, Chairman; Stephens, Crain, Moore, Brown, Edwards, Grace, Blassingame, Martin.

COMMERCE AND MANUFACTURES.—Moore, Chairman; Guy, McCormick, Brady, McLeary, Henry of Cass, Henry of Limestone, Douglass.

PUBLIC ROADS, BRIDGES AND FERRIES.—Blassingame, Chairman; Henry of Limestone, Brown, Ball, Ledbetter, Martin.

PUBLIC CLAIMS AND ACCOUNTS.—Henry of Limestone, Chairman; Henry of Cass, Crain, Terrell, Piner, Wortham, Hobby, Moore, Grace, Thompson.

CONTINGENT EXPENSES.—Guy, Chairman; Ford, Douglass, McLeary, Storey, Thompson, Francis, McCormick, Piner.

GENERAL LAND OFFICE.—Ball, Chairman; Grace, Ledbetter, Henry of Cass, Brown, Moore, McLeary, McCulloch.

PUBLIC PRINTING.—Wortham, Chairman; Ford, Douglas, Edwards, Crain, Motley, Martin.

FEDERAL RELATIONS.—Stephens, Chairman; Thompson, Carroll, Ledbetter, Smith, Guy, Martin, Terrell, Brown.

PUBLIC BUILDINGS AND GROUNDS.—Henry of Cass, Chairman; Terrell, Ford, Edwards, Douglas, Stephens, Crain, Carroll, Blassingame.

PUBLIC DEBT.—Brady, Chairman; Piner, Douglas, Storey, Smith, Thompson, Wortham, Ball, Brown, McLeary.

INDIAN AFFAIRS AND FRONTIER PROTECTION.—Ford, Chairman; McLeary, Stephens, Ball, Martin, Edwards, Hobby, Guy, Blassingame.

STATE ASYLUMS.—Francis, Chairman; Motley, Grace, Terrell, Thompson, McCullough, Blassingame.

STOCK AND STOCK RAISING.—Crain Chairman; Henry of Limestone, Ford, McLeary, Blassingame, Stephens, Ledbetter.

AGRICULTURAL AFFAIRS.—Martin, Chairman; Henry of Limestone, Blassingame, Motley, Carroll, Brown, Moore, McCullough, Guy, Burton, Ripetoe.

RETRENCHMENT AND REFORM.—Brown, Chairman; Crain, Edwards, Ball, Grace, Henry of Cass, Francis, Carroll, Terrell.

TREASURER'S AND COMPTROLLER'S DEPARTMENT.—Carroll, Chairman; Stephens, Grace, McCormick, Ball, Ledbetter, Edwards.

PRIVILEGES AND ELECTIONS.—McLeary, Chairman; Terrell, Story, Henry of Cass, Moore, Thompson, Ford, Hobby.

COUNTIES AND COUNTY BOUNDARIES.—Ledbetter, Chairman; Francis, McCormick, Grace, Ball, Douglass, McCullough, Smith, Wortham, Burton.

REVISION OF SENATE RULES OF ORDER AND JOINT COMMITTEE ON RULES OF JOINT SESSION.—Thompson, Chairman; Hobby, Smith, Wortham, Stephens, Story, McLeary, Brady.

ENGROSSED BILLS.—Stephens, Chairman; Crain, Wortham, Edwards, Martin.

ENROLLED BILLS.—Grace, Chairman; McCormick, Wortham, Ball, Brady.

The President of the Senate appointed the following Pages: George Calhoun, Sidney Shepard, and H. C. Carter; James N. Haskell, Postmaster and Messenger; also the following names as Porters: Lee Blocker, Jack Goodman, and August Lundin.

Senator McLeary presented a memorial from Edward Miles, Chairman of the Texas Veteran Association of the 29th Senatorial District, "Asking attention and aid for those who have rendered services to their country; and also assistance for the widows of the dead veterans." Read and referred to Committee on State Affairs.

Senator Hobby introduced a bill entitled "An Act to establish the Court of Appeals, and to regulate the mode of procedure therein in criminal cases." Read first time and referred to Committee No. 1 on Judiciary.

Senator Ford introduced a bill entitled "An Act to provide for the alternation of the Judges of the 23d and 24th Judicial Districts, in holding the courts of said districts in exchange with one another." Read first time and referred to Judiciary Committee No. 2.

Senator Stevens introduced a bill entitled "An Act making an appropriation to defray the contingent expenses of the first session of the Fifteenth Legislature." Read first time and referred to Committee on Contingent Expenses.

The President laid before the Senate the following notice of contest for the seat of Hon. A. P. McCormick, from the 19th Senatorial District, which was read and referred to Committee on Privileges and Elections.

To Hon. A. P. McCormick:

The undersigned respectfully informs you that he will contest the validity of your election to the office of Senator from the Nineteenth Senatorial District of the State of Texas to the Fifteenth Legislature, to which you claim a seat by virtue of an election held on the fourteenth day of February, 1876, under an ordinance passed by the late Constitutional Convention for this State, and as holding certificate of election to the said office of Senator.

Your right to a seat in said Legislature is denied; and the undersigned contests your election, and relies on the following grounds to sustain such contest, to-wit:

First. At the time of the election aforesaid, and before and since, you were Judge of the Eighteenth Judicial District of the State of Texas, in full possession and exercise of the functions of that office, and by reason thereof ineligible; incapable of being elected to the office of Senator, aforesaid, of which the electors had notice.

Second. That the undersigned received, at the election aforesaid, for the office of Senator, to which he was and is eligible, in the Nineteenth

District aforesaid, two thousand, nine hundred and fifty votes, being the next highest number of votes cast at said election for any candidate; by reason whereof, and of your said ineligibility, the undersigned was duly elected to the office of Senator for the said Nineteenth Senatorial District to the Fifteenth Legislature of the State of Texas, and is entitled to his seat therein.

Third. That the County Court of Brazoria county, previous to the election aforesaid, acting under authority of an ordinance submitting the new Constitution to a vote of the people, and for other purposes, passed by the Constitutional Convention, re-divided the said county into precincts, and established only four voting places in said county, to-wit: At Brazoria, at Columbia, at Sandy Point, and at Hart's Store; and did abolish, against the wish and protest of the electors thereof, the voting places, to-wit: Liverpool, Velasco, and Quintana, where elections had always before, and since the earliest organization of the government of the Republic of Texas, been held continuously till the abolishment of said voting places by said County Court, a short time before the recent election. That the distance from Liverpool to Sandy Point, the nearest voting place, is about twenty-five miles; that the distance from Velasco and Quintana to the nearest voting place, Hart's Store, is about twelve miles; that no voting place was established west of Brazoria, in said county, although the one formerly existing was, by said County Court, at the time aforesaid, abolished, against the protest of the electors therein, by means of which a large portion of the electors of said county were practically disfranchised, because of the great inconvenience in attending the voting places remaining in said county; that at the said precincts, thus abolished, the white electors greatly exceed in numbers the black electors, while at the voting places so established by said County Court the electors of the African race greatly exceed those of the white race.

Fourth. That at Sandy Point, in Brazoria county, on the day of election, violence was threatened and used against electors who made known their intention to vote for candidates avowedly Democratic, or who were suspected of intending so to vote, and thereby the freedom of electors prevented.

Fifth. That acts of fraud and violence were committed and threatened at the voting places of Brazoria county, and at Hawkins' Store and other voting places in Matagorda county, by those of the Republican party, and all this in the interests of yourself, among other candidates for office in said counties.

Respectfully submitted, this 14th day of March, 1876.

CHARLES L. CLEVELAND.

I hereby certify that on the 14th day of March, 1876, I handed to the Hon. A. P. McCormick, in person, a true copy of the foregoing notice of contest.

JOE A. OWENS.

March 14, 1876.

To Hon. Charles L. Cleveland:

The undersigned respectfully replying to your notice of contest of his election to the office of Senator from the Nineteenth Senatorial District of the State of Texas to the Fifteenth Legislature shows:

First. That the undersigned is eligible—legally qualified to be chosen

—to the Fifteenth Legislature, and that no matter of fact is shown in your "first" ground of contest which even appears to disqualify him, or render him ineligible to the first Legislature under the new Constitution.

Second. That the undersigned received at the election aforesaid for the office of Senator in the Nineteenth District aforesaid, three thousand seven hundred and twenty-one votes, which gave him a majority over yourself of seven hundred and seventy-one votes.

Third. The County Court of Brazoria county, more than twenty days before the late election, did re-divide said county into the number of precincts provided for by the new Constitution, and established one voting place in each precinct; the said court, with whom the discretion was lodged, not deeming it necessary for public convenience that more voting places should be established in any of said precincts. Your allegation that a large portion of the electors of said county were practically disfranchised is unwarranted by the facts, is expressly denied, and is abundantly answered and refuted by the volume of the vote cast—the largest ever cast in the county—and by the political and personal complexion of it as well.

Fourth. The undersigned has no knowledge of the matter embraced in your "fourth" and "fifth" grounds of contest, and said matters are too vaguely stated to enable him to enquire into and answer the same; but on his best information and belief, he replies that said charges are gratuitous and wholly unfounded in fact, and the same are all and singular distinctly denied. Respectfully replied this 18th day of March, 1876. (Signed) A. P. McCORMICK.

The following are the returns of the election held on the 15th day of February, A. D. 1876, in the counties of Galveston, Brazoria and Matagorda, for Senator of the Nineteenth Senatorial District of the State of Texas:

Charles L. Cleveland received in Galveston county.....	2389 votes.
" " Brazoria "	357 "
" " Matagorda "	204 "
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	2950 votes.

A. P. McCormick received in Galveston county.....	2117 votes.
" " Brazoria "	1127 "
" " Matagorda "	477 "
	<hr/>
	3721

Majority for A. P. McCormick..... 771 votes.

I hereby certify that the foregoing is a true copy of the official returns of the election named therein, as made to me, the undersigned, returning officer of the District named.

Given under my hand and the seal of the County Court of Galveston.

R. D. JOHNSON,
Presiding Justice Galveston County.

Senator McLeary offered the following resolution :

Resolved, That the Sergeant-at-Arms be authorized to contract for and purchase stamps and stationery for the use of the Senate.

Lost.

Senator Smith offered the following resolution :

Resolved, That the Sergeant-at-Arms of the Senate be and is hereby required to contract for and purchase, from the lowest bidder, postage and stamps, and all necessary stationery for the use of the Senate.

Adopted.

Senator McLeary offered the following resolution :

Resolved, That the Committee on Printing and Contingent Expenses be instructed to immediately report a bill to provide for the contracts for stationery, printing, postage stamps, etc.

Adopted.

Senator Piner offered the following resolution :

Resolved, That the Sergeant-at-Arms be instructed to secure the return to the Senate Chamber any chairs or other furniture belonging to the Senate Chamber that have been removed therefrom.

Adopted.

Senator Piner introduced a bill entitled "An Act to organize and define the County Courts, their powers and jurisdiction." Read first time and referred to Judiciary Committee No. 2.

Senator Piner introduced a bill entitled "An Act to organize a Commissioner's Court in each organized county." Read first time and referred to Judiciary Committee No. 1.

Senator Ledbetter introduced a bill entitled "An Act to suspend the collection of the road tax." Read first time and referred to Committee on Roads, Bridges and Ferries.

Senator Piner offered the following resolution :

Resolved, That at 3 o'clock P. M. of this day the Senate proceed to elect a President *pro tempore* of the Senate.

Adopted.

Senator Smith in the Chair.

Senator Grace offered the following resolution :

Resolved, That the Senate proceed to draw for the terms of the members thereof.

Referred to Judiciary Committee No. 1, with instructions to report to-morrow.

Mr. President resumed the Chair.

Senator Smith offered the following resolution :

Resolved, That, under the direction of the President, suitable seats be prepared within the bar of the Senate, to be assigned to reporters for the press.

Adopted.

On motion of Senator Grace, the Senate adjourned until 3 o'clock P. M.

— EVENING SESSION.—3 P. M.

Senate met pursuant to adjournment. Roll call. Quorum present.

A message from the Governor was announced.

Senator Stephens moved that the special order for the election of a

President *pro tempore* at this hour be postponed, and the message of the Governor be now read.

Lost.

Nominations being in order for President *pro tempore*, Senator Piner nominated Senator Tilman Smith, of Grimes.

Senator McLeary nominated Senator Wells Thompson, of Colorado county.

Senators Ball and Martin were appointed as tellers.

Before the voting began, the Chief Clerk of the House announced the organization of that body by the election of the following officers :

Hon. T. R. Bonner, of Smith county, Speaker ; William C. Walsh, Chief Clerk ; J. L. Cunningham, First Assistant Clerk ; B. S. Fitzgerald, Journal Clerk ; L. G. Roberts, Engrossing Clerk ; W. O. C. Nelson, Enrolling Clerk ; J. L. Hall, Sergeant-at-Arms ; B. C. Hutchins, Assistant Sergeant-at-arms ; W. I. C. Autrey, Door-Keeper ; E. R. Vick, Assistant Door-Keeper ; C. A. Staunton, Chaplain ; and that the House is now ready to receive any communication the Senate may have to make.

The first ballot was had with the following result :

Senator Smith, 12 ; Senator Thompson, 14 ; Senator Storey, 1.

Senator Thompson having received a majority of all the votes cast, was declared duly and constitutionally elected President *pro tempore* of the Senate.

The President appointed Senators McLeary, Smith and Terrell to conduct the President *pro tempore* to the chair.

Senator Thompson in a brief speech thanked the Senators for their confidence and support, after which the President resumed the chair.

On motion of Senator Stephens, the following message of the Governor was taken up and read :

MESSAGE OF THE GOVERNOR.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, APRIL, 1876. }

To the Senate and House of Representatives of the Legislature of Texas:

GENTLEMEN:—It is with sincere pleasure that I welcome you, the representatives of the people, to the capital of the State, and tender as I do the earnest co-operation of the executive with the legislative department of the government in the arduous labors now before you.

Since the adjournment of the last session of the Legislature, while a few of our people have been terrible sufferers from the great storm which swept our gulf coast, in September last, the great mass of the people of Texas have enjoyed a season of unparalleled prosperity. Neither plague nor pestilence has visited them, and the earth has yielded to them without stint her richest treasures. They have been for the most part unaffected by the financial and industrial stagnation unhappily pervading all the other States of the Union. Their abundant crops, for which good prices have been realized, and the immense tide of immigration pouring with steadily increasing volume into the State, bringing labor and capital, enterprise and energy, has not only repelled from our borders the depression which is paralyzing the energies and weighing down the hopes of the people of other countries, but has stimulated every branch of industry, and imparted renewed vigor to all our sources of production.

Evidences of thrift and prosperity in the opening of new farms, the extension of old ones, the erection of new and commodious houses, in the improvement of stock, in the diversification of crops, the use of labor-saving implements, and a general improvement in the methods of agriculture, greet the eye of the traveler in every section of the State, while our towns and cities, responding to the impetus received from the unwonted energy and advancement of our great agricultural interest, are rapidly growing in wealth and population. And while this is true, the people have never at any former period been so free from debt, or in such easy, unembarrassed pecuniary condition.

The sun does not shine to-day upon a people so prosperous, so independent, so well supplied with the comforts of life, and so buoyant with hope for the future, as are the people of Texas.

For blessings so signal, our heart should be filled with gratitude, and we should bow in humble acknowledgment to the Supreme Giver of all good, while reverently invoking divine favor upon our efforts to add to those already enjoyed, the inestimable blessings of a good government.

You meet under circumstances devolving upon you unusual responsibilities, and requiring more than ordinary statesmanship. No more important Legislature ever sat in Texas, nor was one ever confronted with more arduous labors. The recently adopted Constitution is but the commencement of a great work. The task lies before you of completing in all its parts the structure of government, the outlines of which are furnished; and the excellence of the government and success of the new organic law will depend in a great measure upon the fidelity and wisdom with which your part of the work is performed. To accom-

plish it will require much of patient, painstaking labor, a comprehensive knowledge of the State and all her interests and wants, and that your task be approached in a spirit of compromise and concession, which alone will assure harmonious action and satisfactory results. The adjustment of our statute laws to the new Constitution, the remodeling of our criminal system, the revision and change or amendment of our penitentiary system, and the reorganization of our civil jurisdiction and methods of procedure, the reconstruction of our revenue system, the inauguration of a free school system, and last, but not least, a revision of the new Constitution, with the view to proposing and submitting such amendments as may be found necessary, all of which should be done by this Legislature, are suggestive of the number, variety and complication of the questions with which you have to deal, and of the great interests involved in their satisfactory solution. That your labors will result in an advanced step towards the establishment of good government, and will meet the reasonable expectations of the people, I am not permitted to doubt, since past experience proves that failure has never yet attended an earnest effort by the representative men of Texas to construct government suited to the wants of the State, and in accordance with the will of the people.

CONSTITUTIONAL AMENDMENTS.

The people of Texas having adopted the new Constitution with authority to the Legislature to propose amendments when satisfied they are required by the public interest, it will be well to remember that we are here not only to enact appropriate legislation, but that our duties embrace within their range the removal of all obstructions which may be found in the way of good government, so far as lies in our power, and if such exist in the Constitution, at once to do our part towards removing them.

It is no reflection upon the Convention which proposed, or the people who adopted, that instrument to do so. The first Congress which assembled under the Constitution of the United States, proposed ten important amendments, which were immediately adopted by the States. Good government is of slow growth, and the work of time and unremitting effort.

Let us discharge our duty honestly and earnestly, according to the lights before us, leaving to those who follow, the burden of their day, lightened as far as may be by the wisdom which may mark the labors of ours.

That amendments are expected and desired by the people in some important particulars, it is believed is clearly shown by the general popular expression accompanying the ratification of the instrument at the polls. That a diversity of opinion exists as to the particular provisions to be amended and the character of amendments to be substituted is also true; but you, gentlemen, the representative men of the State, having the confidence of the people, informed as to their wishes, being here to consult and deliberate and act for the general public good, can extract from the mass of opinion on this subject the popular will, and when that has not been expressed, as faithful public servants, standing upon an eminence from which the eye of the statesman can

discern that which others may not see, can lead where the public weal directs, relying upon an enlightened public sentiment to follow and sustain you. We are assembled in council for the purpose of perfecting, as far as lies in our power, good government in Texas. We have before us a Constitution, the foundation of our government, for which the people of Texas are solely responsible. As sensible, practical, representative men, bearing in mind the decisive, not to say overwhelming, expression of the people in its favor, and remembering at the same time the admission of its most earnest advocates of a necessity for its amendment, let us revise the instrument and correct its defects, and in doing this let us be practical, let us not attempt to disturb that which belongs to the field of legitimate experiment and should be tried to determine its merits, but confine ourselves to such changes as experience teaches, and the practical common sense of the country can see ought to be made. Let us not defeat our purpose by attempting too much; let us only aim to do that which will command success; and to insure this, let no man underrate the significance of the majority by which the Constitution has been adopted, and fall into the error of supposing that every measure or principle embraced in it, in the wisdom of which he does not concur, are still open questions. If this great popular verdict means anything, it means that every question of State policy upon which an issue has been joined in the politics of the State, since the adjournment of the Twelfth Legislature, a determination of which is embraced in its provisions, is finally and conclusively settled, at least so far as existing public sentiment can do it. It means that there shall be a limit to taxation; that taxes may be levied to support legitimate government, and for no other purpose; that the devices and schemes by which, under specious and plausible pretext, two-thirds of the towns, cities and counties in all the States in the Union have been bonded until the people cry aloud for relief from the consequent taxation which presses them to the verge of bankruptcy, shall never circumvent and oppress the people of Texas; that State, county and city indebtedness shall be forever prohibited; that no subsidy which involves one dollar of tax directly or indirectly upon the people shall ever be granted by the State or any municipal sub-division of it; that railroad corporations shall forever be subject to the regulating power and control of the State; that special legislation, with its train of demoralizing evils, shall no longer consume the time of our Legislature, or subject the public interest to spoliation for private benefit; that the limitations upon the powers of Government for the protection of the persons and property of the citizen, and the powers asserted for and vested in the Government for the same purpose, are fixed and settled; in short, the result of the recent election shows that the people were in earnest in adopting this Constitution, and will not submit to interference with its leading, vital, prominent features, but demand that their wisdom be tested by time and trial.

Principles which have received the popular approval in the adoption of this Constitution are believed to embody the will of the people, upon which they should not again be disturbed or agitated, while measures relating simply to the operation of governmental machinery, administrative agencies for the dissemination of the benefits of the Government may be revised and, if necessary, put in process of correction. Prominent among these is that portion of the Constitution known

as the judiciary article. Of the many questions and measures discussed before the people, and upon which the public mind was exercised before the late Constitutional Convention, not one was so little understood, or excited so great a diversity of opinion as the re-organization of the judiciary. That a necessity existed for some change in the old system was generally agreed; but in what respect it should be changed, how the reform should be made, there was as general a disagreement. Public sentiment was not crystalized upon any plan of re-organization when the Convention met; there were nearly as many opinions on this subject as there were members. The subject was placed in charge of a committee composed mainly of the ablest legal minds in the State, who, after wrestling with it for many weeks, and finding it impossible to agree, permitted a report of an article in which it is believed none of them concurred, which, with some slight changes made by the Convention, is the article on that subject now found in the Constitution. There is believed to be a general concurrence of opinion among the bench and bar of the State that this article should be radically changed, and a general desire and expectation with the people that it be done at once. Submitted separately and on its own merit, it is confidently believed that it would have been overwhelmingly voted down. To it may be traced almost exclusively the opposition made to the Constitution, while the most earnest advocates of the instrument generally admitted that it should be thoroughly amended. Public sentiment, in every mode by which it can be reached without injury to the remainder of the instrument, has condemned it, and demanded that it be reformed; nor is this deep and widespread dissatisfaction without ample cause. Without descending into minor details to point out defects, of which there are many, the judicial system organized by this Constitution is fatally vitiated by the following prominent faults: It provides for two high courts of last resort, giving supremacy to neither, and leaves the country to be vexed with uncertainty as to what is the law when conflicting opinions are announced by these tribunals. It established County Courts, conferring on them extensive general and statutory jurisdiction, and prescribes no qualification for the Judges, thus submitting at least half of the litigation of the country, and the administration of the laws to Judges, many of whom are utterly uninformed of the laws they must administer, leaving suitors no remedy for inevitable injustice except an expensive appeal to a distant court. It abolishes the office of District Attorney, heretofore filled by men of learning, ability and experience, and substitutes that of County Attorney, most frequently to be filled by inexperienced men, leaving many counties without prosecutors at all, where they are the most needed, thereby paralyzing the efficiency of the laws, exempting criminals from punishment, and inviting an increase of lawlessness and crime so difficult to repress under the most rigid enforcement of the laws.

It extends the jurisdiction of Justices of the Peace over matters and rights more important than should be submitted to the judgment of men usually unlearned in the law, and fails in some instances to provide for appeals. It provides salaries for District Judges which are insufficient to support them in many districts, and are not a fair equivalent for the service required in such districts. It surrenders the people, in a considerable section of the State, through the justice and county

courts and sometimes the district court, in three-fourths of their litigation to the domination of uneducated and ignorant suffrage.

If County Judges are paid salaries, the cost of this system to the State will be much greater than that of the old. If they derive their compensation from fees, to be taxed as cost, they will frequently have a direct pecuniary interest in their decision, dependent upon the ability or inability of the parties, plaintiff or defendant, to pay the cost, which may bias their judgment, and destroy judicial impartiality.

It provides speedy trials for persons charged with misdemeanors, who are always able to give bail; but for those charged with felony, who usually lie in jail at the expense of the county, only two courts a year are provided, thus increasing the expense of keeping and chances for escape of the worst class of criminals greatly beyond those of the old system.

While possibly, but not certainly, saving to the State a few thousand dollars in a matter of Judges' and District Attorneys' salaries, this system in expense to the counties and costs thrown upon the people, is vastly more onerous than the old one and greatly less efficient. It lowers the standard of the courts, lessens the respect of the people for their judicial officers, and inaugurates a loose, inaccurate, unsystematic and uncertain administration of the laws.

The remedy provided in the Constitution for the removal of incompetent County Judges is delusive, and cannot be enforced, except in rare and extreme cases; and that for taking away the jurisdiction of those courts by general or special laws, if enforced, will beget confusion, and be utterly destructive of any thing like system, and an evil only a little less than that from which it is a means of escape.

The judicial system framed in this article as a whole and in all its parts is, in my judgment, the most faulty, inefficient and expensive one that has ever been suggested; so much so, indeed, that the shortest and most direct mode of perfecting a good system seems to me to be not to attempt its amendment, but to substitute it with an entire new article.

In an old country, with a settled and well organized society, composed of populous counties, with some amendments, this system might give satisfaction, as it possibly may in a few of the more favorably situated counties in Texas; but in a vast, sparsely settled territory like ours, with a heterogeneous, migratory, restless population, scattered over a great portion of it, and many of our counties in a condition of semi-organization, any system based, as this is, on an assumption of the existence of favorable conditions in the counties for its success, must necessarily be a failure. If it shall please the Legislature to deliberate upon this subject with a view to the construction of a more satisfactory and suitable judicial system, their attention is earnestly invited to the system under the old Constitution just abandoned, as the best, with a few simple changes, that can be devised—the most economical and the most efficient. The departure in the new Constitution from that system, as we have seen, has utterly failed to satisfy the public mind, and it is my conviction that the people, with that strong practical sense which ever characterizes their action after mature deliberation, will promptly return to the old system, so amended as to make it adequate to a reasonable dispatch of the business of the country, if the opportunity is offered them. A system with a sufficient number of District Judges to do the business of the country, and two

Supreme Courts—one civil and the other criminal—so organized as that, in case of conflict of opinion, one shall be supreme, or one court with power to resolve itself into two, and do the work of two; the salary of District Judges to be \$3000, and of Supreme Judges to be \$4000; the District Courts to hold two terms a year for general business and a third exclusively for criminal business; with exclusively criminal courts in special localities, a District Attorney for each district, and the Probate and County Court system of 1848, with justices' courts, having the same jurisdiction always exercised by them previous to the adoption of this Constitution, would, in my judgment, give satisfaction, and an efficient judicial administration.

The small outlay by the State in salaries for the maintenance of such a system, over and above the cost of the present, would be infinitely outweighed by saving of expense to the State and the county, and the citizens, in all the details of procedure and administration.

An increase of the salaries of the Judges is recommended because believed to be expedient; but if differences of opinion on this subject should bring danger of defeat of any change, I would not make the question, but let salaries remain as now fixed.

The burden upon the country of the old system did not arise from salaries paid to the Judges and District Attorneys, but from cost to the county, of jury service, custody of prisoners and other current expenses, of holding the courts, and to the State from District Attorneys' fees, mileage to Sheriffs for conveying convicts to the penitentiary, etc. All of which have been and are grossly excessive as has been shown elsewhere in this communication. A proper retrenchment of these under the judicial system recommended, will, it is believed, give us the most economical administration that can be devised, which at the same time is efficient. The subject is an important and difficult one, worthy of the best efforts of statesmanship for its successful and satisfactory solution, and these suggestions are made in the earnest hope that they may contribute something to the common fund to which the country looks for relief; and if not adopted, that they will at least awaken inquiry, and elicit from others more able, wiser and better reflections.

German to the judiciary article, because a co-operative force in administration of the laws, I request of the Legislature a critical revision of all that portion of the Constitution regulating the part to be borne by the executive department in enforcing the laws. The judiciary may be all that is desired, but unless sustained by a vigorous executive, must be inefficient. Weakness of the executive enfeebles all the other departments of government; a vigorous enforcement of the laws is impossible with a powerless executive. The Constitution enjoins upon the Governor that "he cause the laws to be faithfully executed," but withholds from him the power to comply with the mandate. The executive agents of the government are independent of him; he cannot command one of them, directly or indirectly. If they fail to discharge their duty, and the laws remain unexecuted, the Constitutional requirement upon the Governor is a dead letter. This should not be so. The Constitution as it stands is illogical, and should be amended. The agencies provided for the enforcement of the laws should be amenable to the Governor; he should have the power to command them, to the end that the Constitutional requirement of him may be obeyed, and he held responsible.

Prosecuting Attorneys and Sheriffs should be required to obey the instructions of the Governor, and he should have the power of removal over those officers, and to fill the vacancies until the next general election. When there is not enough of moral force in a county to resist the domination of lawless men, and grand juries are afraid to indict thieves and murderers, and Justices of the Peace fail or refuse to issue warrants of arrest, as is the case in Mason county; or when deadly feuds between parties assume such proportions as to embroil a whole county, culminating in frequent murders and assassinations, as has been, and is now the case in DeWitt county; power should exist somewhere to order a change of venue and have prosecutions instituted and conducted in other counties, where terrorism does not prevail; and criminals can be brought to justice and punishment. Some authority must be trusted; power outside of any grant in this Constitution must be exercised, or the laws in such cases as I have mentioned must remain unexecuted, and the worst criminals in the country go unpunished. There should be a mode prescribed under a proper constitutional provision by general law for the levy and collection of a special tax from the people of the counties, when it becomes necessary to send militia to maintain the laws, sufficient to cover the cost incurred for their benefit. This would be a powerful inducement to the people and local officers to so discharge their duty as to render outside aid unnecessary, and would be just to the balance of the State.

The faults of this Constitution are not of principle, but in the adjustment of its administrative machinery, its weak and inefficient judicial and executive organization, producing a government incapable of asserting its powers and enforcing its mandates with that energy and vigor necessary to inspire respect and confidence, and exact obedience.

The condition of Texas at this time, with her vast frontier, her cosmopolitan population, restless and adventurous, receiving from all quarters of the world almost daily accessions of men of desperate fortune and questionable character, many fugitives from the justice of other States to the inviting field here presented for their criminal operations; is such, as for the maintenance of law and good order, requires a strong, determined and vigorous administration in every branch and department of the government, State and local.

Public sentiment demands swiftness and energy in enforcement of the laws, and the people expect of this Legislature to meet this demand squarely and liberally. Much may be accomplished by proper statutory legislation; but amendments of the Constitution in the particulars named must form the basis upon which alone a permanent reform can rest. The honor and good name of the State, no less than its material interests, and the rights of citizens to be secure in their persons and property, require that no delay shall be made in proposing such amendments to the Constitution as will place the administration of the laws in the hands of a learned and competent judiciary, backed by an Executive invested with power to "cause the laws to be executed."

I invoke the most earnest efforts of the Legislature upon this subject, and appeal to them as the representative men of Texas, honored and trusted by the people, to come with no faltering step to the performance of this high duty before them. These amendments are needed now; no experiment or trial is required to demonstrate their necessity. The executive organization of the new Constitution is "in the respect

being now discussed " exactly that of the old, which was admitted to be inefficient ; while the judicial organization of the old Constitution is, by the concurrent opinion and almost unbroken voice of the bench and bar and non-professional intelligence of the State, infinitely superior in efficiency to that provided in the new Constitution, and was itself confessedly inadequate to a proper enforcement of the laws. If a proposal of amendments shall be deferred until another session of the Legislature, during the four years which must elapse before their benefits would be realized, in my judgment, incalculable evil will result to the State, and a crushing responsibility to the political party upon which it falls. Not intending to forestall the judgment of others who may think differently, only one other amendment occurs to me as indispensable, to be proposed at this time, and that is, of Section 4, Article XI, which provides that the maximum rate of taxation for the support of municipal governments, in cities of ten thousand inhabitants and less, shall never exceed one-fourth of one per cent., and for cities above ten thousand inhabitants, two and one-half per cent. The enormous difference between these rates, the utter insufficiency of one, and the excessiveness of the other, is suggestive of inadvertence or mistake. The smallest tax upon which a city of from five to ten thousand inhabitants can maintain a government, is one-half of one per cent., and at that rate the government must, as it should, be very economical, while one per cent. is an ample maximum for cities of more than ten thousand inhabitants. The history of municipal governments in the United States for ten years past, and notably for the last five, shows an appalling increase of debt and taxation. While the United States government, and all the State governments have made large reduction of their debts, those of the towns and cities throughout the country have increased with a most unprecedented rapidity, and municipal taxation in a corresponding ratio. Extravagance, speculation and reckless adventure in all sorts of public improvements, regardless of expense, have characterized the administrations of these governments, until the statesmanship of the country, alarmed at the inevitable bankruptcy which must ensue, if the evil continue unchecked, is earnestly seeking a remedy. I know no other than an absolute limitation upon their power, confining its exercise within reasonable bounds. Two and a half per cent., besides the State and county tax, is a heavier burden than by the Constitution should be permitted laid upon any portion of the people of Texas. It is an invitation to abuses, which in other States are oppressing the people of cities and towns with excessive taxation, against which the highest wisdom demands that we should provide.

My views of the constitutional prohibition upon the encouragement of immigration have been elsewhere expressed ; your superior judgment can best determine whether it is advisable to agitate its repeal, so as to leave the question open to the consideration of the people through their Legislatures.

There are doubtless other respects in which the Constitution could be improved, but many objections made to it are permitted, by the flexibility of the instrument, to be remedied by ordinary legislation, while many others will disappear under judicial construction.

Where not vital, and such as the experience of the country does not show in advance to be vicious, as it does in the instances named, it is

believed to be the true policy to test by trial rather than attempt the amendment of supposed defects now.

JUDICIAL ORGANIZATION.

In view of the fact that whether the judiciary article is amended or not, the legislation of the session on the subject must be based on the Constitution as it is, I recommend that the civil jurisdiction of the county courts be restricted to probate business, and to such matters and controversies as by the Constitution are confided to the jurisdiction of Justices of the Peace.

If this change were made, the jurisdiction of the county court throughout the country would be concurrent with that of the Justice of the Peace in his precinct. The jurisdiction taken from the county court would be vested in the district court. The constitutional provision authorizing special terms of the district court, when necessary, will enable you to provide by appropriate legislation for the increase of business in those courts, caused by the proposed reduction of the jurisdiction of the county court. No inconvenience which may possibly result from this change will, in my judgment, be comparable in magnitude to the evil of adhering to the present constitutional provision on the subject, which would remit a large and important portion of the litigation of the country, involving common law and equity, as well as statutory jurisdiction to Judges, from half to two-thirds of whom, whatever may be their general intelligence and information, are utterly uninformed of the laws of the country.

I also earnestly recommend that the office of District Attorney be restored. Not to do this is, in my judgment, equivalent to the entry of a *nol. pros.* as to one-half of the crime committed in the State, and to invite lawlessness of the worst description; for if criminals are not brought to justice by law, the history not only of this, but of all the other States, shows that society will protect itself against them in a mode which makes criminals of men who would otherwise be good citizens. The office of District Attorney should be made to attract the best talent of the State; such men as have just gone out of that office under the old Constitution, than whom no State in the Union could show abler in the same position. In populous counties, the county court and County Attorney system, as fixed in the Constitution, may work well. In many of the counties, good, and in some of them, able County Judges and Attorneys have been elected; but in at least one-half, perhaps two-thirds of them, it is believed that County Judges, honest men and good citizens, but having no knowledge whatever of law, and County Attorneys of no experience, have been chosen. The county courts, if their jurisdiction as now fixed remains unchanged, will entertain and dispose of more than half the litigation of the State, and it is idle to expect it to be done satisfactorily, or without enormous expense, vexation and injury to litigants and the country by Judges unlearned in the law they propose to administer.

I am informed that in some counties persons never licensed to practice law have been chosen County Attorneys, and in a considerable number of counties no one has been found willing to take the office, and consequently in such there is no public prosecutor. When it is considered that the best talent in the country is usually employed in the

defense of criminal causes, it will be readily seen to what extent the interest of the State and society will suffer under the present system.

Sections 21 and 22 of the judiciary article, it is believed, fully warrant the changes recommended, while public policy and true economy imperatively demand them.

The necessity for circumscribing, as far as possible, the jurisdiction of incompetent judges, and for protecting the interests of the State where they will suffer detriment from the inexperience of County Attorneys, should be recognized at once and promptly met. These changes are recommended to be made by a general law, with such exceptions as may be deemed advisable.

Enactments prescribing the times and forms of procedure for the county and appellate courts, are necessary at once, in order to put those courts into operation. I am informed that, with no new business, it will take the Supreme Court two years at least to dispose of the old cases now on their docket, when, in addition, they have the rapidly accumulating new business also before them. It will be seen to what vexatious delays suitors before that court will still be subjected.

It is regarded of great importance to the development of the great amount of good to be found in the new system that the courts shall commence operations unembarrassed; and as one mode of relief, it is suggested that temporary appointments of Judges might be made to decide the causes remaining on the old docket. This is an expedient which has been resorted to successfully in other States, and would, it is believed, be within the constitutional power of the Legislature to adopt here. Our Supreme Court have *always* had before them a great many more cases than they have been able to consider and determine, and the most serious injury has resulted to the public and to individuals from the temporary, but at the same time indefinite delay in the administration of the law. It is confidently believed that, with a fair start, the Supreme Court, under the present organization, can and will, at each term, clear their dockets, and the expediency of placing the court in that position, is well worthy your serious deliberation. Certainly a little expense should not deter you from attempting the accomplishment of so important and desirable result.

MISCELLANEOUS LEGISLATION.

It is impracticable within the limits of a paper of this character to do more than call your attention to a few of the many provisions of the ~~new~~ Constitution requiring legislative action. Prominent among these are the various provisions of that instrument devolving upon the first Legislature assembled under it, the duty of enacting appropriate laws for carrying them out. These are directly mandatory upon your honorable bodies and should receive your early attention.

Sec. 1, Article XII, provides that no corporation shall be created except by general law. A liberal general law, which shall afford abundant facilities for the association and operation of capital, should at once be enacted. The statute books of other States, having the same constitutional provision, will be instructive on this subject.

Sec. 1, Article X, will necessitate a general law under which railroad companies may be formed. The necessity to the country of these great arteries of commerce, will suggest that the law shall be comprehensive

and liberal; that no narrow or unreasoning prejudice should be allowed to interfere with a broad and statesmanlike policy on this subject.

Taxation by the State, or by any municipal sub-division of the State, either directly or indirectly, for the benefit of railroad corporations, is forever prohibited, and the Constitution thoroughly subordinates all corporations of this character hereafter formed to the paramount authority of the State. All questions heretofore made on this subject in the politics of the State are settled in this Constitution in favor of the people and their government, and no reason can now exist for any other than a fostering, friendly policy. The people are not, and have never been, opposed to railroads; on the contrary, have been, and are keenly alive to their great importance to the development of the country. They have desired only to be protected against the corporations that control them, and to subject them to the law and public opinion of the State, which has been effectually done.

These results being secured, the highest interests of the State demand friendly, liberal and encouraging legislation towards them.

Sec. 2 of the same article concerns existing corporations, and should receive the most mature and careful attention. That abuses exist in the operation of some, if not in all, the railroads in Texas, is unquestionable; where the remedy for them is to be found, is not quite so clear. The difficulty is one which exists in all the States containing lines of railroad, and its solution has been the subject of voluminous discussion in many of them. Some of the abuses are remediable by specific statutory regulation, while others have been found impossible to reach or provide in that way. The difficulties surrounding the subject are such as call for more than ordinary care, and a reference to the experience of other States. In determining your action, I recommend an examination of the system in Massachusetts, which seems to work satisfactorily. In that State, the whole subject under general law is placed in the hands of a board of three commissioners, with extensive powers and discretion, whose supervision extends to everything connected with the organization of railroad companies, their operations and the running and management of the roads, in which the State, or any of the people have an interest. They ferret out abuses, hear complaints, and bring to the notice of the proper authorities all violation of public or private right; make regular reports, suggest legislation, etc. The Legislature, on this subject, while protecting fully the interests of the public, should carefully avoid crippling or interfering with the legitimate operations of the corporation.

Sec. 43, Article III, requires provision made at this session for revising, digesting and publishing the laws, civil and criminal, evidently meaning not a simple compilation and arrangement of our statutes, but the construction of a code which shall contain, as far as possible, their substance, with such additions and improvements as may be deemed necessary, which shall supersede the existing cumbrous mass of inharmonious and cruelly drafted statute law now in force.

The importance of this work will commend it to your earnest attention, and doubtless secure for it a wise and liberal provision. You are respectfully referred to Sec. 55, Art. III, for the prohibition upon local or special legislation, and your attention directed to the necessity and importance of general laws covering these subjects. Some confusion has arisen at the recent election under Section 20, Article V, concerning the election of District and County Clerks. Under this section,

counties having less than eight thousand inhabitants elect a single Clerk, who discharges the duties of both offices; but no mode or means are prescribed for ascertaining the population so as to determine what counties come under the proviso; consequently an election for both District and County Clerk was ordered in all the counties. This difficulty should be remedied by legislation. Your immediate attention is requested to the necessity for legislation prescribing the mode of qualification of recently elected officers. Quite a number of new officers unknown to the old Constitution and laws are waiting to qualify, while much doubt and difference of opinion exists as to whether any of the newly elected officers, especially bonded officers, can qualify under existing laws. A thorough revision and reconstruction of the different fee bills for officers, especially as to fees paid by the State or counties, is strongly recommended. Jail and jury fees are the great burden under which the counties are struggling, and the cause which has almost bankrupted some of them. Under existing laws, jailors, especially in populous counties, make more clear money on a smaller investment than any people in the State. They feed prisoners at a cost often of twelve cents per day and receive from fifty cents to one dollar and twenty-five cents per day board for them.

In Kentucky, the cost of feeding penitentiary convicts is ten cents per day; in Michigan, from seven to ten cents per day; and the bill of fare in both States is good and ample. In Florida, the United States army ration is issued to convicts at a cost of twenty-two cents per day, and it is said that no other State in the Union pays so high for subsisting prisoners. Jury fees, jail fees, allowances for board of jurors in felony cases, who must be kept together, and District Attorneys' fees should be reduced at least one-half and specifically defined by statute. District Judges should be prohibited from making allowances for court expenses and drawing drafts on county treasuries; and the county courts specifically informed by law of maximum rates that may be allowed on each item of county expenses, which should not exceed half what they have been in the habit of allowing heretofore.

Experience has proved that discretion on these subjects is liable to constant abuse, and that the public interest demands that the whole subject be governed by absolute rules of law. The expenses of counties, cities and towns constitute the chief burden upon the people. One half of one per cent. *ad valorem* is the sum total of taxation, to maintain the State government in all its branches and purposes; all other taxation is to maintain the local governments. Under a mistaken impression as to the cause of high taxation, attention has heretofore been given alone to curtailing the expenses of State administration, and the real cause, which is to be found in the local administration, has been overlooked. Attention was called to this fact in my last annual message to the Fourteenth Legislature, but without effect.

The new Constitution has left little or nothing for the Legislature to do in the way of retrenchment in the Departments of the State government, but necessarily remitted to that body the power and duty of carrying out the work of reform in the local or municipal governments. The restricted rate of taxation under the new Constitution for the purposes of these governments will necessarily compel a reorganization of much of their machinery on a greatly less expensive basis. An examination of this whole subject, and a close pruning and cutting down of

cost so as to bring expenditures fully within the revenues allowed, is of the first importance. In many instances, perhaps, a large majority of fees were fixed at a large figure during the war when Confederate money had but little value; and since, when currency was at fifty per cent. discount, and have remained without alteration since. It is now time to reduce them. A general law providing for opening and repairing roads, erecting and keeping up bridges, etc., will demand your attention, and it will be borne in mind that the Constitution requires funds collected from fines and forfeitures, and also convict labor utilized for this purpose. It is supposed that the convict labor here mentioned has reference to convicts who, under our future criminal system, may have to undergo penal servitude in the counties where convicted. The road and bridge laws in force prior to 1870, will furnish a good basis with some few changes of detail for your action on this subject.

The qualifications of grand and petit jurors and the mode of selecting them must also be prescribed. Intelligence and probity of character should be, as nearly as possible, secured in jurors; ability to read documentary evidence and write a verdict should be required of every juror in a civil cause, and no person indicted for an offense *malum in se* should be permitted to sit as juror in a criminal cause. The class of persons who infest courthouses and make jury service a business, should be provided against effectually; and, as one means of accomplishing this, I suggest that no person be allowed to sit as a juror more than six days at any one term of the court, and not more than ten days in any one year.

Texas is one of the few States in the Union whose people are not protected by the government against the operations of irresponsible insurance companies. The law now on our statute books intended for this purpose is utterly inefficient, having no penal sanction, and incapable of enforcement, and is ignored and violated every day with impunity. The Constitution provides, in Sec. 38, Art. XVI, for the creation of the office of Commissioner of Insurance, Statistics, and History. I recommend stringent legislation regulating the subject of insurance, with appropriate provisions for its speedy enforcement. The habit has recently been growing with insurance companies, after losses have been incurred and their liability fixed, of raising objections, threatening litigation, and making delays in payment with the view of obtaining concessions by way of compromise. To remedy this species of injustice and bad faith, and at the same time allow the companies all the benefits of just defenses, I suggest that twenty per cent. damages should be awarded on every policy which the holder is compelled to collect by suit.

The duties which would be performed by a Commissioner of Insurance are now discharged by the Comptroller. It rests in the discretion of the Legislature to create the office of Commissioner or not.

Your early attention is requested to Sec. 21, Art. XVI, and the necessity for the passage of a law, at once, covering the subject mentioned. Stationery, printing, fuel, repairing and furnishing the legislative halls, etc., must be furnished and done, under contract, by the lowest bidder. This is applicable to all the departments of the government, legislative as well as the others. Your early attention is requested to Sec. 26, Art. IV, of the Constitution, with reference to the appointments of notaries public. This clause provides that the Governor shall appoint "a convenient" number of such officers for each county. In the absence of a

legislative declaration of the number to be appointed, the Governor would, I presume, be invested with discretion to determine how many would be "a convenient number."

It is believed to be the better course that this matter be regulated by fixed law, which all can understand, rather than by the indefinite, not to say arbitrary, discretion of the executive; and an enactment for that purpose is accordingly recommended.

It is to be regretted that the clause is so constructed as to prevent the appointment of such officers, except when the Legislature is in session, as they can only be made "by and with the advice and consent of the Senate." The great number of these appointments to be made, necessitates immediate action on the subject.

ENFORCEMENT OF THE LAWS.

In the last annual message sent to the Legislature, in view of the unusual amount of crime then prevalent, and the general demand of the country, and the urgent necessity for vigorous, repressive measures, I elaborated at some length my views of the proper mode of reaching the evil. This was done with the two-fold purpose of procuring such legislation as was within the constitutional power of the law-making department to enact for the suppression of crime, and in view of the then anticipated assemblage, at an early day, of a Constitutional Convention, to bring about such discussion of the subject as would eventuate in such changes of the organic law as might be found necessary in order to deal effectively and promptly with the subject.

Specific recommendations were made to the Legislature, and that body was appealed to, to place in the hands of the executive such powers, not inconsistent with the Constitution, as the exigency of the times demanded. They were shown that while the Governor is required to take care that the laws be faithfully executed, none of the agencies provided for enforcing the laws are placed in his hands, under his control, or within his reach; that the Sheriffs and Prosecuting Attorneys, the chief executive agents of the State, as well as the other executive officers, are independent of him—in fine, that without additional legislation, the Governor was utterly powerless to do more than simply offer rewards for the apprehension of fugitive criminals, and had a very small appropriation even for that purpose. In response to this appeal was enacted a law wholly and utterly impracticable, one which has defied every attempt to put it into execution, as its framers contemplated it would be, and, if executed, would still be utterly worthless for any practical purpose.

In view of recent crimes in Texas, subversions of law and order, destruction of the good name and honor of the State, as well as its tranquility and the security of the people, perpetrated by lawless men, who have shown themselves by these acts enemies of the people and the government, I again call attention to the absolute necessity for legislation which shall arm the judicial and executive authorities with power effectively to vindicate and execute the laws of the State and bring offenders to justice.

The Governor should in Texas, as in other States, have authority to command the Sheriffs and Prosecuting Attorneys; and there should be a short, sharp and decisive mode of getting rid of such of these officers

as show themselves inefficient or incompetent. No leniency should be shown to those whose incompetency in office puts in peril the peace of whole communities, brings contempt upon the government and dishonor upon the State. It should be made a rule of evidence, a legal presumption, when a jail is forced and prisoners taken out and murdered, or are rescued by their friends, that the Sheriff and Jailer are accessories to the crime, devolving upon them, if innocent, the burden of proving their innocence. A *bona fide* defense against such attacks would always attract such attention as to be susceptible of proof; and in the improbable event of the conviction of an innocent man under such rule, executive clemency could always be relied on for his relief. Under existing laws, the perfidious or negligent betrayal of their trusts by these officers is almost impossible of proof.

No Sheriff should be permitted to hold the office another day after his jail has been forced, unless he can prove an actual, *bona fide*, determined resistance, until overcome by superior force, and extraordinary vigilance and diligence in providing against it. Of all the jails forced in Texas, I have never heard of a Sheriff or Jailer being hurt, or one of them hurting any of the assailants; nor have I ever known a *bona fide*, resolute resistance made by a Sheriff or Jailer to the demands of a mob, fail to be successful. Only such officers as it is known will surrender their prisoners are called on to do so. These officers are authorized to call the power of the county to their assistance, and should be held to a stern and unrelenting accountability. The peace and tranquility of their counties, the dignity and supremacy of the law, and the good name of the people and State, is, for the most part, in the keeping of the Sheriffs. The trust is too high and grave, and affects too nearly and vitally the interests of society, to permit an exaction of anything less than the highest standard of excellence in its fulfillment.

Able and energetic prosecutors, and resolute, vigilant Sheriffs are an absolute necessity to the maintenance of law and the suppression of crime in Texas; and any system which fails to secure these, and promptly to correct mistakes when improper men are placed in these positions, is a vicious one, and must be inefficient.

The people of Texas have never failed to sustain good officers in these positions, or to be demoralized by inefficient ones. Legal provisions which shall ensure efficiency in these positions will educate the people up to that standard which will maintain the law and punish crime through the agency of their home officer, and will be much more in accord with the theory of our government than any plan which causes them to look to the Governor to do that which they themselves should do.

Once establish in the minds of the people full confidence that criminals in jails will be safely kept, will not be taken out by their friends and confederates outside, and will be in due time ably prosecuted, and the cause which leads nineteen times out of twenty to mob violence, jail breaking and the execution of prisoners, will be removed, and these disgraceful and barbaric occurrences will cease. Although the worst forms of violence themselves, they are but protests against the inefficiency of the administration of the criminal laws, and especially of the local executive officers. The legislation which attempts to remedy this evil must be fundamental enough to reach the cause or be a failure; and among other provisions which occur to me to be indispensable in

this connection, is the providing for a speedier trial of criminals. The law on the subject of continuances places it in the power of bad men to protract the day of trial almost indefinitely by false swearing, which they constantly do with the hope of escape or rescue from jail. This should be remedied at once, and the court to which the application is addressed should be made sole judge of the truth or probability of truth of the application; and no appeal allowed from the decision. Many counties have no jails, or such as afford no security for the safe keeping of prisoners, and are not able to build them. Could not jail districts be laid off composed of several counties, and good and safe jails be built at the joint expense of the counties composing them, for the safe keeping of their prisoners? Safe jails, vigilant Sheriffs, speedy trials, and able prosecutors, are the only agencies which will secure an efficient enforcement of the criminal laws and the suppression of mob violence.

Auxiliary to these, when needed, a special county constabulary, called into existence by the action of the county authorities, and commanded by the Sheriff, and paid by the county, as I had the honor to recommend to the Fourteenth Legislature, should be provided for. I cannot believe that those who advocate the establishment of a system of State police as a remedy for lawlessness, have given the subject proper consideration. A system of State police, under the orders of the Governor, would violate every principle upon which the theory of our government is based, and, in my judgment, aggravate every evil we now suffer. It would relieve local officers and the people of their duty to maintain the laws, and cause them to sit supinely by and call upon the Governor to do that which should be done at home. With time, this abdication of duty would grow, and the necessity for a police force would increase, eventually destroying the vitality of local government, concentrating a power in the executive, backed by a force trained to ready obedience to his will, which, in the hands of an unscrupulous officer, would become an engine of oppression, and a means of controlling the political action of the people. Such a system is at war with the animus of our government, the traditions of our people, and would be an admission of the incapacity of the people to maintain the local governments which are the base upon which our entire republican system is built.

I am not prepared to make such an admission, nor do I believe it expedient or wise to hazard the perils of a departure from the fundamental principles of government in which the American people have been reared and educated. Viewing the matter from an economic standpoint, outside the principles involved, and the question of expediency, the cost of maintaining a force of State police in active service, which would be adequate to the demands of it, could not be less than half a million dollars annually, and would constantly increase, thus becoming a most onerous burden upon the country. My convictions are clear that the only true method of suppressing lawlessness is for the State government to surround the local officers with the most favorable conditions possible for the purpose, and cast upon them and the people the duty and responsibility of maintaining the law; vesting in the Governor, or some other authority, the power to remove inefficient Sheriffs and prosecutors, and fill vacancies by appointment until the next general election; provide, at any cost, for safe jails, speedy trials, and when necessary, a special county constabulary, to be paid by the county,

and to this may be added provision for the employment of detectives. By means like these, we maintain a correct theory of government, and build up a healthy public sentiment, the only safe reliance for a proper administration of the laws, which in time will take care of the subject. If there be constitutional objections in the way of imparting greater force and energy to the executive officers of the government, they should be removed by amendment, at once, because the highest interest of the State demands greater vigor in enforcement of the laws.

Power and responsibility should go together. It being a constitutional requirement that the Governor shall take care that the laws be executed, he should be invested with power to do what is required of him. When the power is withheld, the responsibility should rest elsewhere than on the executive. The power lodged by the Constitution and laws in the chief executive has been used to its fullest extent against violators of the law since I have been in office; but has not been, and will not be, exceeded. None but the powers granted have been, or will be, exercised; these are a mere shadow, without substance—utterly ineffectual. It remains with the Legislature to determine whether legislation for the more efficient enforcement of the criminal laws is not necessary, and upon your action upon this subject will depend whether the responsibility for non-enforcement of the criminal laws shall continue to rest on the legislative department of the government. Your honorable bodies are respectfully referred to the views expressed in my last message to the Fourteenth Legislature, which are here reiterated, and may be found in the journals of the two houses, and in the executive and State departments. The last Legislature refused a small appropriation for keeping in DeWitt county a squad of militia, to aid the civil authorities in maintaining the supremacy of the law. The disturbances in that county had been quieted by the presence and assistance of Capt. McNelly, with a small company of men; but, since his withdrawal, have been renewed, and lawlessness is again rampant there. So, in Mason county, and portions of the country on both sides of the Nueces, bands of desperadoes and criminals defy the law, commit murder with impunity, drive off, in defiance of law and without shadow of right, cattle belonging to the citizens, and produce a feeling of terror in the country. A remedy for this condition of things should engage your earnest attention; and especially it should be borne in mind, that hereafter sessions of the Legislature will be biennial, and while I have been able to obtain the services of militia in DeWitt county, and on the Rio Grande, without appropriation, depending on the succeeding session of the Legislature to make provision for their pay, it will be impossible to get men for such service when they must wait two years for their pay; and your adjournment without provision for such contingencies may result in great embarrassment to the executive, and detriment to the country.

STATE FINANCES.

The reports of the Treasurer and Comptroller of the condition and operations of their departments up to August 31, 1875, the end of the last fiscal year, together with supplemental reports up to the first of February, 1876, are herewith transmitted for your information and consideration. The subjoined statements exhibit the financial condition of the

State, the receipts and disbursements during the past fiscal year, the amount of the public debt, and the changes which have occurred in it since the last report :

RECEIPTS.

Balance in the Treasury August 31, 1874.....	\$389,993 77
Receipts from all sources since that date.....	2,410,081 77
	<hr/>
	\$2,800,075 54

DISBURSEMENTS.

For ordinary expenses of government from August 31, 1874, to August 31, 1875.....	\$857,522 99
For public free schools.....	620,205 38
For frontier defense.....	256,911 77
For interest on public debt.....	307,525 70
Disbursements on special accounts.....	455,110 38
Balance in the Treasury August 31, 1875.....	302,799 32
	<hr/>
Total.....	\$2,800,075 54

The receipts in the Treasury, above stated, include funds of every character, proceeds of bond sales, trust and special funds, as well as the revenues from taxation collected for ordinary support of the government.

PUBLIC DEBT OF THE STATE, FEBRUARY 1ST, 1876—BONDED DEBT.

Bonds for funding State debt, act of Nov. 19, 1866.....	\$125,000 00
Bonds for funding State debt, act of May 1, 1871.....	75,000 00
Frontier defense bonds, act of Aug. 5, 1870.....	697,000 00
Revenue deficiency bonds, act of May 19, 1871.....	279,000 00
Bonds for funding State warrants, act of May 30, 1873....	4,400 00
Bonds for funding State warrants, act of May 2, 1874.....	499,000 00
Revenue deficiency bonds, act of December 2, 1871.....	500,000 00
Bonds for the payment of the floating debt, act of March 4, 1874.....	1,000,000 00
Pension bonds, acts of August 13, 1870, and April 21, 1874.	1,070,357 00
	<hr/>
	\$4,249,757 00

FLOATING DEBT.

Warrants on general revenue unpaid, Feb. 1, 1876.....	\$36,512 72
Warrants on school fund, drawn for payment of teachers in the public free schools prior to July, 1873.....	331,493 28
Approved certificates of debt issued by the Auditorial Boards of 1866 and 1871.....	46,947 84
Pension certificates, and approved claims unbonded.....	82,904 00
Interest due Agricultural and Mechanical College on State bonds, held by the Treasurer for that fund.....	45,280 00
	<hr/>
	\$543,137 84
	<hr/>
	4,249,757 00
	<hr/>
	\$4,792,894 84

The following statement exhibits the changes which have occurred in the public debt since January 1, 1875:

Bonded debt January 1, 1875.....	\$2,943,389 00	
Increase since January 1, 1875, in bonded debt, as follows, viz: From sale of frontier defense bonds of act of Aug. 5, 1870, for payment of debt prior to Jan., 1874.....	\$113,000 00	
From sale of revenue deficiency bonds of act of May 19, 1871, for payment of debts prior to Jan., 1874.....	22,000 00	
From coupon bonds of act of May 2, 1874, issued in lieu of registered bonds of act of May 30, 1873.....	85,400 00	
From coupon bonds of act of May 2, 1874, issued for funding State warrants.....	322,000 00	
From sale of revenue deficiency bonds of act of December 2, 1871, payment of debt prior to January, 1874.....	496,000 00	
From pension bonds issued since January 1, 1875.....	267,968 00	
	<u>\$1,306,368 00</u>	
Total bonded debt Feb. 1, 1876.....	\$4,249,757 00	
Floating debt January 1, 1875.....	\$1,069,032 21	
Decrease in the floating debt since January 1, 1875.....	525,894 37	
	<u>543,137 84</u>	
Total floating debt Feb. 1, 1876.....	543,137 84	543,137 84
Total State debt Feb. 1, 1876.....		<u>\$4,792,894 84</u>

Of the above increase in the bonded debt, \$696,840 77 represents claims accrued prior to January, 1874; and \$600,527 23 those accrued subsequent to that period.

The entire public debt on the first day of February, 1876, being \$4,792,874 34, is shown by the above figures to be \$780,473 03 greater than it was on the first day of January, 1875. Nearly half of this increase, to-wit: \$350,372 00, accrued under the veteran pension act, and consists of bonds issued and pension claims established and approved since January first, 1875. About \$100,000 of it is accounted for in the discount and expense of sale of \$700,000 of State bonds, sold after January 1, 1875, and the additional interest paid on that proportion of the public debt. Much of it arises from claims by school teachers for services prior to July, 1873, and by officers and others on old accounts against the State, audited under act of the Fourteenth Legislature, and a portion of it from a deficiency in the revenue.

Receipts in the Treasury for the fiscal year, ending 31st August, 1875, subject to appropriations for the support of the government, including free schools, amount to \$1,514,196 82, the balance of the receipts being special funds, while the expenses of the government for the same period, also including free schools, amount to \$1,875,267 50, leaving a deficiency of \$361,070 68. This deficiency, except about \$36,512 72, and

the small amount of undrawn appropriations made for the last fiscal year, has been absorbed in funding bonds, which are included in the above statement of the public debt. The deficiency is due to the failure to collect the taxes assessed. If collected, the revenue would have more than met the appropriations, notwithstanding the failure to assess a very large proportion of the taxable property, and the excessive under-valuation of that placed on the tax rolls.

It devolves upon this Legislature to provide for the payment of \$279,000 of bonds issued under act of May, 1871, which mature on the first day of September next, and \$125,000 of bonds issued under act of November, 1866, which become due on the first day of January, 1877. These obligations, of course, must be paid promptly at maturity. Sec. 36, general provisions, new Constitution, also requires the first Legislature to provide for the payment or funding of claims due teachers of public schools for services prior to July 1, 1873, amounting, it is believed, to at least \$400,000; and for the payment, by school districts, of the amounts due by the respective districts, to teachers of public schools to January, 1876.

It is suggested for your consideration that there is in the State Treasury \$323,582.88 of money belonging to the permanent school fund, besides more than \$400,000.00 in United States five and six per cent. bonds to be invested by the Board of Education, the authority of that body extending to a sale of the United States bonds and investment of the proceeds in State bonds, if deemed for the interest of the school fund. Some arrangement, if desired, could probably be made with the Board of Education by which this entire fund would be invested in State bonds. If, however, this should not be desired, bonds of the State at long time and a low rate of interest can be readily disposed of at par to meet these demands, especially since such sale would not be the creation of a new debt, but simply a change of shape of a portion of our old debt.

I recommend that the entire floating debt which is small, be immediately funded, and that an Auditorial Board be established to ascertain the amounts due teachers of public free schools in the different school districts, and appropriate legislation for the levy and collection of a tax in the respective districts for the payment of the claims when so ascertained as required in the clause of the Constitution referred to.

Detailed estimates for appropriations will be found in the report of the Comptroller. Some of them are believed to be excessive. The reduction of expenses by the operation of the new Constitution, it is believed, will bring the cost of maintaining the government within the limit of the revenues, and very much within that limit if our tax laws are made effective. It will be borne in mind in making appropriations that no other Legislature will meet until after November, 1878, unless an extra session shall be convened by the Governor. Doubts have been intimated of the correctness of this proposition, but I have no doubts on the subject. Sections 6, 7 and 9, of the ordinance submitting the Constitution, considered in connection with Sec. 5, Art. III, of the Constitution, seem to me to leave no room for doubt.

Nearly \$1,700,000.00 of the bonded debt of Texas, exclusive of that due in September and January next, before referred to, is bearing ten per cent. interest. A very large proportion of this, say nearly \$1,200,000.00, is in pension bonds, the remainder being funding bonds.

All of these bonds are redeemable at the pleasure of the State, none of them later than 1879, and a considerable portion of them in 1877. Sound policy dictates that these ten per cent. bonds be called in at the earliest possible moment, and it is believed to be entirely practicable, in view of the high ground on which our State securities now stand, to substitute them with bonds running thirty years, and bearing six per cent. gold interest. Legislation for the accomplishment of this purpose is earnestly recommended.

One of the most important subjects claiming your attention is that of the assessment and collection of taxes. A law which shall promptly subject all the property in the State to its just proportion of the burden of maintaining the government is of the first and highest importance. Our present revenue laws are wholly inefficient. Taxes now due and unpaid and returned as delinquent amount to several millions of dollars. But a still greater evil is the failure to assess a considerable proportion of the taxable property of the State, and the undervaluation of that which is assessed. No better evidence of this is needed than the fact that the last assessment shows an increase of only about two and a half per cent. over that of 1874, notwithstanding the influx of immigration and capital, and the general prosperity of the country, while the assessment in the old State of Kentucky, for the last year, a period of financial distress, shows an increase of about eight per cent. The annual increase of taxable value in Texas certainly, upon proper assessment, cannot be less than twelve per cent. Yet, for 1874, the assessment amounted to \$244,510,558.00, while for 1875 it amounts only to \$250,853,750.00, an increase of \$5,500,000.00 when it should not have been less than \$30,000,000.00. Quoting from my last annual message on this subject: "Taxation should be equal and uniform, but under this law it is believed that two-thirds of the property of Texas pays all the expenses of the government, the other third contributing nothing. Those who pay the taxes are citizens whose property is in sight, who produce, who cultivate the soil and improve real estate in the towns and cities and create the wealth of the country. One of these rarely escapes taxation. A large proportion of the personal property, money, bonds, bills, notes, merchandise, stocks and other valuables in the State, and of the assets of banks, banking concerns, trust, insurance and other companies and corporations, not visible to the assessor, is never assessed, and pays nothing. A vast amount of real estate, chiefly unimproved, also escapes taxation. I am informed by the Comptroller that no tax is being paid on about 35,000,000 acres of patented land. This amount he *knows* of. How much more he cannot tell."

These things are as true now as when represented to the Fourteenth Legislature. There has been no improvement in the assessment or collection of the taxes. As a fair average illustration of the practical working of our present revenue system, I quote from the able report of the Comptroller: "By reference to the table of assessments, it will be seen that the entire taxable values of Galveston city and county, including merchandise, money on hand and at interest, stock and miscellaneous property of every kind, exclusive of real estate, is placed at the small sum of \$3,133,072. The return of poll taxes for the city and county is \$1,339.00 out of a population of say 35,000 for Galveston city alone."

The failure of Assessors to ferret out and diligently bring up and place on their rolls all the property and values liable to taxation, and

the extreme under-valuation of that which is assessed, are the chief evils of our present system, against which it is hoped ample provision will be made in the legislation of your present session. In order to conform our tax laws to the requirements of the new Constitution, a thorough revision and amendment of them is necessary, and I suggest for your consideration if it would not be expedient to make stringent provisions for the pecuniary liability, as well as for his criminal prosecution, of any Assessor who shall fail to be diligent and vigilant in the discharge of his duties.

Persons who seek these positions should not be allowed to shirk or ignore their duties to the great detriment of the public interest with the impunity which is assured them under the present laws. The Governor, of his own motion, or on the report of the Comptroller, of the failure of these officers to discharge their duty properly, should be authorized to command the County or District Attorneys to institute criminal prosecutions and proceedings on their official bonds against them. The efficiency of any law you may enact on the subject will depend greatly upon the manner of its execution, and rigid accountability from the agents appointed to execute tax laws is shown by the history of this branch of the public service in Texas, to be absolutely necessary.

In the matter of compensation of the Assessor, the interest of the officer should run parallel with that of the State. In making assessments, his fees should be graduated so as to give him an interest in the last as well as the first dollar's worth of property he assesses, and the commissions should be liberal enough to secure competent men for the work. If the Assessor could be impressed with a sense of his responsibility, and is rendered easily amenable by summary means for a failure to discharge his duties properly as should by all means be done, the aid of the County Court, constituted by the new Constitution a Board of Equalization, will secure a proper and uniform valuation of the taxable property. You are respectfully referred to the report of the Comptroller for what appears to me to be an admirable change recommended by him in the law for the collection of taxes. The large amounts of taxes due and unpaid is suggestive of grave defects in the method of collecting, and the recommendation referred to, if adopted and enforced, will unquestionably add greatly to the efficiency and simplicity of the law in this regard. I earnestly recommend its adoption.

Your attention is called to that clause of the new Constitution which requires that provision shall be made by the first Legislature for the speedy sale of a sufficient portion of all lands and other property for the taxes due thereon, and every year thereafter for the sale of all lands and other property upon which the taxes have not been paid. The provisions for these purposes should be as summary and as simple, as little encumbered with formality, and in view of the great number of cases they will operate on, as inexpensive as they can possibly be made. A cumbrous or complicated and costly remedy, or one involving delay, would tend to defeat rather than accomplish the object of its enactment. Under the old Constitution, it has been found impossible to coerce the payment of taxes on land. The payments made on that species of property have, under that instrument, been purely voluntary. The new Constitution happily places it in the power of the Legislature to frame tax laws and provide coercive remedies against

delinquents, which shall be effective, and the highest interests of the State require that it be promptly done. Funding bonds and other devices to supply the place of revenue, are simply expedients, and a resort to them is always to be deprecated. An effective revenue system and a rate of taxation adequate to the wants of the government, is the only basis of State credit, and the only reliance for maintaining the government. Our rate of taxation is more than ample; in fact, can safely be reduced, if collections are made certain and prompt.

TEXAS INDEMNITY BONDS.

The litigation over the Texas indemnity bonds, illegally taken from the the State Treasury during the war, and adversely held by various parties in England and Holland, which since 1866, in various shapes, has been dragging its slow length along in the courts in Washington City, has at length been settled, the funds realized after payment of all expenses, amounting to within a small fraction of \$300,000, which has been paid into the Treasury. For this result the State is greatly indebted to the ability and enterprise of Messrs. J. D. and D. C. Giddings, of Brenham, at whose risk and expense Col. D. C. Giddings visited the adverse holders of these bonds in Europe, and negotiated a compromise settlement, bringing home with him the proceeds. Col. Giddings' report, together with a detailed statement of the entire transaction, expenses paid, etc., will, in a few days, be laid before your honorable bodies.

REPORT OF BOND SALES.

A detailed report of sales of bonds of the State, made by Hon. W. L. Moody, the State agent for that purpose, under acts of the Fourteenth Legislature, is ready for transmission to your honorable bodies. This report, as well as that on the subject of the Texas indemnity bonds, being voluminous, would add too much to the length of this communication, and therefore will be made the subject of a special message.

The important and delicate trust confided to Col. Moody in the agency for the sale of those bonds, has been most ably and satisfactorily executed, and that too under difficulties which, at the time, seemed insuperable. His services have been most valuable in helping to bring about the gratifying change which has occurred in the value of our State securities.

PUBLIC CHARITIES.

The report of the Superintendent of the Lunatic Asylum shows present one hundred and fifty-two inmates in that institution, against one hundred and twenty-seven at the commencement of the fiscal year; that nine have died, and fifty-four have been discharged. The general health of the patients has been good, and the per cent. of recoveries of mental health above the usual average. The administration of the financial affairs of this asylum, as well as the care and treatment of the unfortunate inmates, has been exceedingly satisfactory. To the public spirited gentlemen composing the Board of Directors, and the able and energetic Superintendent, the State is indebted for a management which, while economical and just, is inferior to that of no similar institution

in an efficient, enlightened and beneficent promotion of the kindly treatment and care, the comfort, the health, and, as far as possible, the restoration of the afflicted people under their charge. Your attention is invited to the report of the Superintendent, in which will be found a clear and detailed statement of expenses, of receipts and disbursements, and of improvements made on the buildings and grounds. That portion of the report which sets forth the necessity for the erection of additional buildings for the accommodation of the insane, is especially urged upon your consideration. It will be borne in mind that Sec. 54, Art. XVI, new Constitution, requires the Legislature to provide for the custody, care and maintenance of indigent lunatics at the expense of the State. Heretofore the counties from which they were sent have borne this expense, and in consequence, they have been sent only as a last resort, when absolute necessity required it. When it is understood that the expense of care and maintenance of these unfortunates is borne by the State, it is safe to assume that a great many more than ever before will be sent to the asylum. The asylum is already full, and in order to obey the constitutional requirement in this regard, the Legislature must, of necessity, make immediate provision for enlarged accommodations. These same reasons must also enter into the estimate in determining the amount of appropriation for support of the asylum. Under existing laws, three-fourths of the cost of maintaining the asylum is paid by counties and private patients, making the draft on the State very light, but under the constitutional provisions referred to, the expense heretofore borne by the counties will, for the most part, fall on the State and necessitate a larger appropriation for the asylum than has been required heretofore.

Your attention is respectfully directed to a matter which I deem important, and to which the attention of the Fourteenth Legislature was twice urgently called, but upon which that body failed to act. As fully explanatory of the subject referred to, I quote from my last annual message to the Legislature:

"I invite your attention, also, to the abuses that may arise, as suggested in this report, from the fact that in the present law no check is placed upon the Treasurer of the asylum, in the collection and disbursement of moneys, collected from counties and private patients, and concur in the recommendation of the Board in this report, that all moneys coming to the institution should be made payable by law into the treasury of the State, and disbursed therefrom on the orders of the Board of Managers. No action was taken by your honorable bodies on this recommendation. It is now respectfully renewed. The office of Treasurer of the asylum has been abolished by the present Board of Directors, but the officer upon whom is devolved the duties formerly discharged by the Treasurer stands in his place, so far as this recommendation is concerned. I recommend that it be provided by law that the Superintendent of the asylum shall be required to make quarterly reports to the Comptroller of Public Accounts, of all moneys due from counties for patients in the asylum, and of all moneys due for private patients, and that the Comptroller be required to open and keep the accounts of all indebtedness of the counties and private patients to the asylum, and be charged with the duty of collecting all of said dues, and that the same be paid over to the Superintendent of the asylum, on his requisition, approved by the Board of Managers, in such

amounts and at such times as it may be needed in administering the affairs of the institution. The importance of this suggestion will be appreciated when it is remembered that the funds derived from these sources, if properly collected and accounted for, do not fall very far short of a sufficiency to support the institution, aggregating at least sixty thousand dollars per annum, and increasing each year. Yet, as now and heretofore collected, the accountability of the officer who receives it, beyond his own exhibit of receipts, cannot be established without going to more than one hundred different counties and the friends of all the private patients for evidence.

The checks which have always been considered necessary to the security of public funds, have been omitted in this instance. No reason is perceived for being less careful of the public interests in this than in other instances. Besides, for purposes of convenient reference, the financial condition of the asylum should be shown in the Comptroller's and Treasurer's offices. Being a State institution, it is proper that these offices shall keep its accounts and collect and hold its funds.

It is hoped that this *third* appeal will not pass unheeded, and that some protection will be placed around the interests of the State, which under existing laws are at the mercy of the officials in charge of the asylum. It is due to the present officials of the asylum to state that this recommendation has been twice urged in their annual reports to this office. A revision and change of the laws concerning the admission of patients, etc., etc., is made necessary by the new Constitution, and among other things, provision should be made for determining speedily, who are "indigent lunatics," to be admitted and kept at the expense of the State. The able and interesting reports of the Superintendent of the Institute for the Blind, and of the Board of Trustees of the Institute for the Deaf and Dumb are herewith submitted and commended to your consideration. These institutions are being well managed, and though not extensive in their proportions and appointments, have up to this time been sufficient for the accommodation of the pupils who have desired the educational advantages offered by them. The report of the Superintendent of the Institution for the Blind, however, shows that an enlargement of the buildings of that Institution has become necessary, in consequence of an increased number of pupils, and that various improvements in other respects should be made. Your attention is respectfully requested to the suggestions and recommendations of the Superintendent on this and other points affecting the administration of this Institution. I cannot speak too highly of the wisdom and humanity of the action of the last Legislature, in providing for the services of an experienced oculist for the benefit of the inmates of this Institution. The report of the Superintendent will show that the appropriation for this purpose has proved a most beneficent charity.

The experiment inaugurated under an act of the last Legislature, of teaching the pupils of the Deaf and Dumb Institute the printer's art, is meeting with most encouraging success. The boys in the institute are proving very apt scholars in type setting, press work, etc., and, it is believed, will make most excellent practical printers. These institutes were founded for the purpose of giving the deaf and dumb, and the blind youth of Texas, an education which, as nearly as possible, shall overcome the obstacles interposed by their misfortunes to an intelligent communication with others, and to so train and develop their

minds in some practical direction as to furnish them, when thrown upon their own resources, the means of earning a livelihood. This purpose, in the management of the Deaf and Dumb Asylum, has heretofore only been partially executed, the system pursued there having been purely theoretical, no mechanical or other trade or industry having been taught until the introduction of the printing press a few months ago. The attention of the last Legislature was called to the importance of adding to the system of tuition pursued in this institute other features, which would send the inmates home at the end of their scholastic terms proficient in some of the mechanical or other trades, prepared, by proper industry, to take care of themselves. Acting upon this recommendation, the introduction of the printing press was authorized, and the success attending the experiment is such as fully justifies me in recommending that provision be made and facilities furnished for adding one or two of the mechanical trades to the educational system of the institute. The selection of them can be left with the Board of Trustees and the Superintendent.

The system of instruction pursued in the Institute for the Blind is now, and has been, conducted on the plan recommended for the Deaf and Dumb Institute. The pupils are taught music, to make baskets, brooms and chairs, to be telegraph operators, etc., in all of which they are apt scholars, and soon become proficient. The deaf and dumb have a great advantage over the blind, and with the usual training make excellent artizans and mechanics. I recommend that ample facilities be furnished both of these institutions for giving their respective pupils a practical, useful education, which shall train them in some special branch of industry and qualify them to be self-supporting. The charity of the State thus bestowed will be productive of substantial results.

Statements showing in detail the financial management of these institutions for the last fiscal year, will be found in the reports referred to. Your attention is also called to the report of Gen. H. E. McCulloch, appointed, on the first of March last, Superintendent of the Deaf and Dumb Institute, which is herewith furnished.

The Asylum for the Insane, and the Institutes for the Deaf and Dumb, and for the Blind, represent the contribution of the State to the relief of the helpless and stricken classes of our people provided for in them. Their management and condition are creditable to the State, and eminently promotive of all the purposes for which they were founded, while the expense of their administration and maintenance is comparatively light. It must be borne in mind that the constantly increasing population of the State demands a corresponding enlargement of her public institutions, and that as watchful guardians of the public interest, these asylums should receive their full measure of our consideration.

GENERAL LAND OFFICE.

The very thorough and interesting report of Hon. J. J. Groos, Commissioner, herewith presented, gives an exceedingly satisfactory statement of the operations of the General Land Office during the past fiscal year. The business of this department appears to have been unusually large, greatly exceeding that of any former year. During the period covered by the report, four thousand five hundred and fifty-five patents have been issued, covering an aggregate of two million four

hundred and twenty-one thousand nine hundred and eighty-nine acres of land. Twelve thousand five hundred and ten new files, covering nine million eight hundred and seventy thousand six hundred and eighty-seven acres of land, have been made; and \$54,530.81 of fees and dues have been received in the office.

Estimated area of the State..... 175,594,560 acres.
Total existing claims against public domain..... 108,014,431 "

Public domain against which no claim exists..... 67,580,129 acres.

Your attention is requested to the several suggestions and recommendations made by the Commissioner in his report, and especially to the necessity which exists for transcribing the registers and indexes in his office, for which provision should be made, for additional legislation on the subject of district surveyors and land districts, removing embarrassing ambiguities in existing laws, and for the sale of property belonging to the photographic department, which has been abolished, the same being now useless to the State and liable to waste and destruction. I concur in the views of the Commissioner on these subjects, except that portion recommending the creation of the office of Surveyor General.

Section 1, Article XIV of the Constitution requires the General Land Office be made self-sustaining at the earliest practicable time. It is believed to be entirely practicable to do this. My last message to the Legislature urged that it be done then. It should certainly be done now. The State receives no money for her lands, nobody purchases, and her people should not be taxed to pay the expense of giving the lands away. The grantees and beneficiaries ought justly to pay the expenses incident to the bounty.

A revision and reconstruction of the law regulating fees and dues to be paid into the office, and a sufficient increase made in them to meet the expenses of that department, is all that is necessary. A large increase will not be necessary; the office has been very nearly self-supporting during the past year, under the present fee bill, although in making estimates of the probable business of the office, in order to determine the proper per cent. of increase in fees and dues, it must be remembered that the business of the past year has been exceptionally large, owing to the causes not now existing, or likely to exist again; as is fully shown in the Commissioner's report.

PENITENTIARY.

The report of J. K. P. Campbell, Inspector of the Penitentiary, together with that of the Board of Directors, are herewith presented and respectfully urged upon your attention.

These reports show the total number of convicts on the first of
September, 1874, to have been..... 1454
Number of convicts received to January 1, 1876..... 1246
Total..... 2700

Convicts died.....	109
Convicts killed.....	28
Convicts escaped.....	266
Convicts discharged.....	296
Convicts pardoned.....	96
Convicts that cannot be accounted for, supposed to be discharged, escaped, etc., in former years.....	182
Less.....	977
Total present January 1, 1876.....	1723

These convicts are employed as follows:

In and immediately around the prison.....	443
Engaged in agriculture, on railroads and saw-mills.....	1380

The average receipts per month of convicts, for the year ending 31st August, 1875, was eighty-one.

The average since that time, and to the 1st of January, 1876, is fifty-five per month.

In April last, in consequence of complaints and charges from many sources, of inhumanity to and general maltreatment of the convicts, and of failure to feed and clothe them properly, on the part of those having them in charge, it was deemed advisable to have the condition and treatment of the convicts and the general administration of the Penitentiary thoroughly investigated and truthfully reported. Accordingly, Hon. A. J. Peeler, Assistant Attorney General, Hon. Tillman Smith, of Grimes, and Hon. D. H. Triplett, now of San Saba county, were commissioned for the purpose. The labor was an arduous one, requiring the Commissioners to visit not only the prison at Huntsville, but the numerous camps where the convicts were at labor, scattered widely apart through the country; involving the taking of a great mass of written testimony, after much trouble in finding and procuring the attendance of witnesses; and was ably and satisfactorily performed.

The report of these gentlemen, which is thorough and exhaustive of the matter pertaining to the Penitentiary, and its administration, is earnestly recommended to your perusal and consideration. The testimony taken by the Commissioners, upon which the report is based, is on file in the Executive office, and subject to your disposal, it being so voluminous and unnecessary to a proper understanding of the report, has not been printed. These reports, to-wit: Of the Inspector, the Board of Directors, and the Commissioners, contain, and will place your Honorable Bodies in full possession of, all the information necessary to a thorough understanding of all matters and questions growing out of and pertaining to the Penitentiary, its administration and management, and of the rights and duties of the Lessees and of the State; and make valuable suggestions and recommendations of changes and amendments of the legislation on this subject.

These reports show very clearly that the management of the convicts and their care and treatment are not what they should be under the contract between the State and the Lessees; nor what a humane and enlightened policy on this subject demands. To what extent the shortcomings of the Lessees in this regard are palliated or excused by the

extraordinary rapidity with which convicts have for several years past been crowded upon them in numbers far in excess of what might reasonably have been expected, and of prison accommodations; it is difficult to say. The necessity for scattering through the country on farms, at saw mills and on railroads, twelve hundred and eighty convicts for want of prison room, who must be kept under rigid guard and discipline and coerced to hard labor, unquestionably carries inseparably with it a liability to grave abuses which extraordinary care will not always provide against. But these reports cannot be read without fastening conviction on the mind, that after making all reasonable allowances for the embarrassing conditions surrounding them, the Lessees have fallen short in their care, management and treatment of the convicts; of compliance with what ought reasonably to have been expected. The number of convicts who have died, been killed, and have escaped since the 31st of August, 1874, to January 1st, 1876, is four hundred and three; while but a fraction over four times that number remain in custody. This per cent. of loss shows conclusively a vicious system of administration, which should not be tolerated. It is a fact to be borne in mind, which should have much weight in deliberating on this general subject, that this loss of numbers and the other abuses complained of have occurred for the most part at the outer camps, while within the prison walls the conditions and the management have been in the main much more satisfactory. After the investigation and report by the Commissioners, finding that the Inspector could not possibly discharge his duties in the prison, and see properly after the interests of the convicts in the outer camps, where an Inspector is most needed, the Lessees were required to pay an Assistant Inspector, appointed by and accountable to the Executive, whose sole duty it should be to visit constantly the convict camps and report regularly, at least once in each month, their condition. This officer is now discharging that duty. At the same time the regulations for the government of the convicts, and of their treatment by the Lessees, prescribing the mode and character of punishment, the food and clothing to be furnished them, etc., were revised and amended by the light afforded by the investigation, so, as far as possible, to prevent future abuses and secure a just and humane discipline. Since these steps were taken, there has been a marked improvement in the condition and treatment of the convicts; leaving, however, a wide margin for further improvement. The fact unquestionably exists, and must be dealt with, whatever may be the causes leading to it, that the condition of the Penitentiary, and the treatment of the convicts are not in accordance with a proper policy or creditable to the State. A thorough examination of this whole subject is respectfully urged, as one not inferior in importance to any other which will be before you; and such action, it is hoped, will be taken as will not leave the Executive, as he has been left heretofore, to choose between submission to any condition of things that might come to pass, with power only to remonstrate; or to convene an extraordinary session of the Legislature.

If the unfinished addition to the Penitentiary were completed, as it should have been one year ago, we would have prison room for about six hundred convicts. There are seventeen hundred and twenty-three convicts present, and if they had been properly guarded, there would have been nineteen hundred and eighty-nine—the escapes since Septem-

ber, 1874, to January 1st, 1876, numbering two hundred and sixty-six. These figures are suggestive, if we would avoid in future the discreditable, and in some instances barbarous treatment and management of the convict force of the past, the absolute necessity of building at once two new penitentiaries; or, of so changing our criminal laws and system of punishment as to reduce the number of crimes punishable by confinement in the penitentiary; substituting punishment to be inflicted in the county where convicted. It has long been my opinion that our criminal code sends too many to the penitentiary for minor offences. It is believed that at least one-fourth of the convicts now in the penitentiary were sent for theft from a house; and most frequently of articles of trivial value. If that feature of the law which makes the fact of an article of any value whatever being stolen from a house a felony were abolished, and the grade of the offence left to be determined as in other cases, except the theft of animals, by the value of the thing stolen—all over twenty dollars felony, all under that amount misdemeanor—the number of convicts going to the penitentiary would be diminished more than one-fourth, perhaps one-third; and if a step further were taken, and the Governor requested by joint resolution to pardon out of the penitentiary all now there, who would not have gone under the law as changed; or, if deemed better, to pardon them at the end of say six months from the date of their respective sentences, between one-fourth and one-third of those now in the penitentiary would be discharged, either at once or in a short time.

The law on the subject of theft of animals, it is believed, should remain as it now is, without reference to value. That species of property is dependent almost entirely upon the law for its protection, since it must usually run at large, and cannot be under the eye of the owner as other kinds of personal property, such as are kept in houses, is presumed generally to be. The changes made as suggested, would reduce the penitentiary question within manageable proportions; the present convict force would be diminished at once, or at furthest, within six months, to about twelve hundred, while the present ratio of increase would be diminished about one-third.

These suggestions are made on the supposition that a system may be devised for the punishment of misdemeanors in the counties which shall be self-supporting, under section 3, general provisions of the Constitution.

If the labor of criminals cannot be made to defray the expenses of their punishment in the county, or come very near it, and such a system should be merely a change of burden from the State to the county, I have no hesitation in saying that it is more economical to let it remain where it is, on the State. I have the opinion, however, that it is entirely practicable to have a system of punishment for misdemeanors, to be inflicted in the counties, which, through the labor of convicts, shall be self-supporting; and as such must be attempted through the present class of misdemeanors, I can see no objection to the proposed addition to that class of offenders. In this, or in some other mode, we must relieve the penitentiary, or incur an expense, at a low estimate, of one million dollars in building and equipping two new prisons at once; but, thus relieved, the convict force in excess of accommodation will be not greater than could be well managed, cared for and looked after; and the necessity for haste not being so great, it could be used with but little outlay of money in building leisurely one new penitentiary, which, it is believed, will in

any great event be necessary. The failure of the Lessees, which might occur, or the management and administration of the penitentiary, might be such as to compel the resumption of possession by the State at any time; and in such event great expense, inconvenience and loss might accrue from want of sufficient prison room. If the laws are enforced and criminals brought to justice, as they should be in Texas, it will be many years before we will have less than twelve or fourteen hundred convicts in the penitentiary, and every consideration of public policy, as well as all the ideas underlying the foundation of the penitentiary system as a reformatory as well as a penal agency, demand that at as early a date as possible that portion at least of the convict force capable of being trained to skilled labor shall be operated in the walls of the penitentiary, where, under safe custody, good discipline, and the eye of the State Inspector and Board of Directors, the harsh may be tempered by the beneficent features of the system.

Another most cogent reason is to be found in the inexpediency, when it can possibly be avoided, of placing in competition with the private industries of the country so large a convict force as is not necessarily employed outside the walls of the penitentiary. Under an act approved February 15, 1875, Commissioners have been appointed who have selected locations for the penitentiaries—one near Rusk, in Cherokee county, surrounded by all the conditions necessary for extensive iron works, such as an inexhaustible supply of the richest ore, an abundance of fuel, water, building material, etc., and convenient to railroad transportation; and the other in the vicinity of San Marcos, in Hays county, selected on account of its extensive water power, which can be utilized for driving machinery for the manufacture of wool, cotton, etc., besides having other desirable advantages of abundant building material, etc. The necessary amount of land has been secured at each of these places by title bond executed to the State.

Under the law, the State does not become bound for the price of the land until the selection is approved by the Governor; and thinking it best, since no appropriation to carry out the object of the law, except to pay the expenses of the Commissioners in making preliminary arrangements, such as selecting sites, advertising for proposals, estimates, etc., etc., not to bind the State to pay for land which, in default of an appropriation for building the penitentiaries, would be useless to her; and in view of the possibility that some change of policy on this subject might be desirable to you, I have, the owners of the land consenting, approved the action of the Commissioners, subject to the condition that the State should not be bound to take the land unless the Legislature should adhere to the policy inaugurated by the act before referred to. In accordance with the provisions of the law requiring them to determine which of the penitentiaries shall be first built, the Commissioners have decided, and so reported, that that located near Rusk, in Cherokee county, shall be first constructed. This penitentiary, it is believed, can be constructed with convict labor, and at a very small money cost, and I suggest that this mode of building it be inquired into. As soon as the Commissioners shall have reached the point when a contract must be entered into under the existing law, a full report of their action will be laid before you, so that such appropriation as is necessary may be made.

Your attention is called to the fact that convicts sentenced for life,

well as those sentenced from twenty to sixty years, are reported by the Inspector as being worked on farms. It is from these camps, outside the prison walls; that so many escapes occur. The Lessees disobey orders forbidding such convicts taken outside the prison walls with impunity. I respectfully urge an enactment clearly defining the classes of convicts who may be worked outside of the prison, and those who shall be kept inside, with a penal clause which shall subject any person violating it to prosecution and punishment. The offense should be made a felony. Unless this is done, the worst and most hardened criminals sent to the penitentiary are liable to be turned loose on society, and nobody can be held accountable for it.

In many of the States, indeed it is believed to be so in a majority of them, a reward is offered for good conduct to the convict in a deduction from his term of imprisonment, amounting to as much as one-fourth in some of them, which, I am informed, has been productive of the best results in promoting industry, obedience and general good conduct among the convicts. A similar enactment is respectfully recommended.

The attention of the last Legislature was called to the necessity for additional legislation on the subject of mileage paid Sheriffs for conveying prisoners to the penitentiary, but no action was taken. As now paid, it is believed to be exorbitant, and should be reduced. Attention is again called to this subject. A reference to the Inspector's report will show that upwards of \$89,000 was paid out to Sheriffs for this service from the 31st of August, 1874, to January 1, 1876. One-half that amount would have paid them well. The compensation of the Directors of the penitentiary is not sufficient for the services required of and rendered by them. They receive \$250 per annum each; they are and ought to be men of character, judgment and discretion. Their duties have been most conscientiously and faithfully performed, and have consumed much of their time. They really, under the law, legislate for the penitentiary, and in many important respects control and direct its administration. The compensation was fixed by law many years ago, when there were comparatively few convicts, and all were kept within the prison walls, and their duties were nominal. The trust is now an important and onerous one, and their compensation should be increased accordingly. Five hundred dollars per annum each would be very moderate compensation. The same observations apply with equal force to the salary of the physician, \$750, which, considering the labor he now performs, should be increased to at least \$1200 per annum. Your attention is also called to the bonds given by the Lessees to secure the fulfillment of their contract with the State.

This bond is believed to be worthless, and to afford the State no security, and, as from the first day of July next heavy payments become due annually from the Lessees, it is important that the security be looked after, and that the Executive be instructed as to action to be taken in the event of default in making payment.

My conclusions upon this general subject may be summed up as follows:

1. The administration of the penitentiary under the existing contract is unsatisfactory, discreditable to the State, and in many essential particulars violative of the contract between the Lessees and the State.
2. The Executive should be invested with power, by appropriate legislation, to require a specific performance of the contract on part of

the lessees, and, failing in that, to summarily resume possession of the penitentiary.

3. There should be such legislation as that, if the State is compelled to resume possession, either from refusal or inability to comply with their contract on part of the Lessees, as will enable the government to manage the institution without the necessity for convening an extraordinary session of the Legislature.

4. That it is desirable and practical to so remodel our criminal laws as greatly to reduce the number of persons to be punished by confinement in the penitentiary.

5. That if the number of felonies are reduced as suggested, one new penitentiary will be sufficient, and may be built with convict labor mainly, without any great outlay of money; but if our criminal laws remain unchanged, and are enforced as they should be, two new penitentiaries, each of at least sufficient capacity for six hundred convicts, are necessary and should be immediately provided for.

PUBLIC FREE SCHOOLS.

No more important subject will claim your attention than the establishment of a system of public free schools, a duty made incumbent on you by Section 1, Article VII of the Constitution. Every instrument of organic law ever framed and enforced in Texas, under Anglo-American domination, from the Constitution of 1836 down to the one just adopted, has enjoined this duty upon the government of Texas, and has made munificent provision for its fulfillment out of the only resources we have had to draw on—our public domain. The declaration of independence, promulgated by the Fathers of the Republic in March, 1836, recites the failure of the government of Mexico to establish any system of public education as one of the grievances leading to the great political event announced by that instrument in these words: "It," (the government of Mexico) "has failed to establish any system of education, although possessed of almost boundless resources, (the public domain), and although it is an axiom in political science, that unless people are educated and enlightened, it is idle to expect the continuance of civil liberty or the capacity for self-government." The political axiom thus referred to has, since the time it was recognized by the wise men who framed that declaration, by the extension of the right of suffrage, become vastly more significant than it was at that time, and the differences of opinion formerly existing as to the expediency of public education have vanished in the presence of the dangers to republican government and popular liberty from uneducated and unenlightened universal suffrage.

With universal suffrage we must have universal intelligence, if we would perpetuate free government; and a system of public education will alone accomplish it. The public sentiment of the enlightened and civilized world has crystalized in favor of public education, and the people who fail to recognize the fact, and act accordingly, will find themselves laggards in the general march of improvement. Every State in the Union is striving to perfect a system of public education, and Texas must not do less.

You are required by the clause of the Constitution referred to "to establish and make suitable provision for the support and maintenance

of an *efficient system* of public free schools." The fund known as the available school fund, consisting of one-fourth of the general revenue of the State, all the poll taxes, and the interest on the bonds in which the permanent school fund is invested, constitute the means placed at your disposal annually for carrying out the provisions of the Constitution.

From these sources the Comptroller estimates the following receipts for the year beginning September 1, 1876:

One-fourth State revenue.....	\$350,000 00
Poll taxes.....	140,000 00
Interest on United States bonds.....	30,000 00
Interest on railroad bonds.....	135,000 00
	<hr/>
	\$655,000 00

It may be remarked that the estimate is based upon an improved assessment and collection of the State revenue, and will be borne in mind that if the expenditures or debts incurred in any one year exceed the amount of the available school fund, there is no Constitutional mode of paying the excess, because only the available school fund, whatever that may be, is allowed to be expended, and that fund is set apart each year to maintain the schools for that year, and deficiencies of preceding years cannot be paid out of it. The report of the Superintendent of Public Instruction will inform you as accurately as it can be arrived at of the number of the scholastic population in the State, between the ages of six and eighteen years, as fixed by the old Constitution. It will also inform you of the cost *per capita* per month of free tuition under the old system.

Bearing in mind the amount of the fund provided for this purpose, and the cost per month of each scholar, the scholastic age may be established so as with reasonable certainty to include the number that can be provided for with our resources, and no more. To be efficient, no more should be attempted than can be done well. I suggest five consecutive months as the annual school term, and eight years as the lowest age of the scholar; the limit above that, of course, to be regulated by the number which will be included between the two. Thirteen will, it is believed, be found at least as high as you can go with a five months' term. The rudiments of a plain English education only should be attempted. In sparsely settled portions of the country, the number of children within the scholastic age, in neighborhoods where schools are needed, will not be sufficient, frequently, alone to form a school which will maintain a teacher. It, hence, will be necessary that our general system shall co-operate with the private enterprise in this line; but it should be borne in mind in this connection that your constitutional duty is to establish and maintain an "*efficient system of public free schools*;" and while, under a co-operative system, scholars outside of the scholastic age would be admitted into the schools on such terms as would be agreeable to the proprietors or teachers of the schools, I would regard it indispensable that the school be subject to all the provisions of the law and the regulations of the Board of Education, touching public free schools. In this connection, your attention is directed to Sec. 10, Art. XI, new Constitution, which authorizes you to constitute any town or city an independent school district.

The organization of the system should not be encumbered with the multitude of petty officers which has so disgusted the people with the old system. The County Courts might be constituted county school boards. The Assessors of Taxes might be required to take the scholastic census annually, and return it with their rolls to the Comptroller, as a basis for the distribution of the funds between the counties by the Board of Education, filing also a duplicate with the County Court.

The system should be as flexible as possible, leaving to the Board of Education established by the Constitution, consisting of the Governor, Comptroller and Secretary of State, much discretion and authority over the whole subject.

If a system is inaugurated, simple in its operation, which covers well the ground it attempts to occupy, pays what is promised to teachers promptly when due, and is maintained as a system of public free schools in the sense of the Constitution, in contradistinction to an annual distribution of funds among private teachers, I believe it a germ from which, as our resources increase, and as aided by our splendid land endowment now coming into market, will grow a system of public education, which, in the course of time, will cover the entire educational field in Texas.

A system, which, having grown up among our people from a small beginning, its roots and fibres will have permeated our social system, the people will have been educated to an appreciation of its benefits, and will cherish and foster it. The public mind has not recovered from the rude shock experienced from the attempt to force upon the State the unsuitable, extravagant and onerous system provided for in the old Constitution, with its brood of devouring officials, and needs to be led by slow and easy approaches through practical results, which all can see, to the realization of the benefits of a system suitable to their condition and within their ability to maintain.

The Board of Education being composed of officers who, with their clerks, have already all they can do, have devolved upon them by the new Constitution the duties formerly pertaining to the office of Superintendent of Public Instruction. The correspondence of this Board as well as its other labors, will be heavy, and to perform them and keep its records, the assistance of a first-class clerk will be necessary, which you are requested to provide for.

The annual report of the Superintendent of Public Instruction is herewith furnished, and recommended to your attention. The statistical and other information it contains will be valuable in your deliberations upon the organization of a new system. The labors of this officer in his department, now abolished, have been arduous, and his position beset with many difficulties; but his discharge of duty has been faithful, and as efficient and satisfactory in results as the adverse circumstances surrounding him would permit.

PUBLIC PRINTING.

The cost of public printing for the fiscal year ending 31st of August, 1875, including printing preparatory for the Constitutional Convention, newspapers furnished the Fourteenth Legislature, hire of the Clerk of the Printing Board, and the current printing of the last session of the Legislature, amounts to \$31,418.84. That is the total amount expended.

for this purpose in all the departments of the public service for the year named. The superior economy of the present printing law is shown in the fact that, under the old law, the current printing of the session of the Thirteenth Legislature cost \$28,804.70, and that of the first session of the Fourteenth Legislature \$20,128.04, while that of the last session, under the new law, is only \$6,878.08; and the immense difference in the total cost for all departments may be seen in the fact that the current printing of the Legislature is between one-fourth and one-fifth of the whole for any given year.

Your early attention will be required to the regulation of this branch of the service, and in view of the expiration of the contract of the present Public Printer on the first day of May next, and delays that may occur in your action on this subject, to avoid inconvenience, the Printing Board have arranged that the public printing shall continue to be done under the existing contract until the Legislature shall act on the subject or arrange differently.

IMMIGRATION BUREAU.

The report of Gen. J. B. Robertson, detailing the operations of the Bureau of Immigration for the past fiscal year is herewith submitted for your attention. This bureau, under the active and energetic administration of Gen. Robertson, has accomplished much good, at a trifling cost, by diffusing information of the capacities, resources and advantages of Texas, and in procuring a reduction of rates over all the lines of travel, thereby stimulating the influx of capital and immigration to the State.

The provisions of the new Constitution prohibiting the expenditure of money for the promotion of immigration, relieved your honorable body of the duty of giving further consideration to this subject. While the particular system in force under the old Constitution was not one which met the approbation of my judgment, and I believe that a system based on the distribution through the mails of statistics of the State, collected and compiled by an agricultural and statistical bureau, such as exists in every State in the Union, except Texas, would be more economical, while attracting to the State the best class of immigrants, I have never doubted that the system abolished was infinitely better than no system at all, and refer to it here for the purpose of expressing my clear conviction that the constitutional prohibition referred to is unwise and contrary to the plainest dictates of a proper policy.

With an area of 274,000 square miles of territory, and only 1,500,000 inhabitants at the highest estimate, I cannot perceive the merit of a constitutional prohibition upon any encouragement to immigration to the State. Such a prohibition in Japan or China would have been in accord with the policy which for years, extending into centuries, has marked the rule over those exclusive, semi-civilized, overcrowded and stagnant peoples; but found in the organic law of a young, vigorous and progressive State like Texas, whose greatest wealth lies dormant in rich, unproductive lands, and greatest need is population—men and women to improve and cultivate it—does seem out of place, illogical and directly at war with the State's highest interests. Its appearance in the Constitution seems forbidding and inhospitable, especially in view of the fact that its omission would simply have left the matter to

the determination of the people through their Legislature, and is therefore much to be regretted.

While in addition to our great natural advantages, good government, low taxes and free homesteads, offer unparalleled advantages to the immigrant, some method of making known these advantages to the world is greatly needed. This great want could have been supplied with trifling cost but for this prohibition, as provision is made in Section 38, Article XVI of the Constitution, for the creation of the office of Commissioner of Insurance, *Statistics* and History; and all that is necessary to utilize that office in the interest of immigration is a small appropriation for printing and postage.

INDIAN FRONTIER.

I am gratified to be able to report a greatly improved condition of affairs on our Indian frontier. The incursions of Indians, which for years past have, to a great extent, rendered life and property insecure in the more advanced settlements, are becoming rare occurrences, while confidence and a feeling of security heretofore unknown is filling the country with immigrants, and rapidly advancing the settlements. Under this feeling, within the last eighteen months the line from which the pioneers had been driven back upon the interior has been regained, and the rapidly advancing tide of immigration has pushed far beyond. As an evidence of this I have only to refer to the recent organization of Shackelford, Eastland, Coleman, Kimball and McCullough counties, and to others now taking preparatory steps towards organization. The accumulation of strength in these new communities of hardy, adventurous people, is every day adding to the safety of the frontier, and to that confidence and feeling of security which alone is necessary to the settlement and development of that country, thus bringing nearer each day the time when the State will be relieved of the burden of maintaining troops for its defense. This improved condition is due very greatly to the services of the frontier battalion, under the admirable and energetic management of Maj. John B. Jones. The incursions of Indians have constantly become less frequent since this battalion has been scouting the frontier line. During the first six months of its service, more than forty bands of Indians visited the frontier. During the second six months, some twenty parties of Indians were reported raiding in the settlements. From May until September last, only six parties were down; and since September, there have been no Indians on the frontier.

Within the first twelve months of the service of this battalion, sixteen encounters were had with the Indians, in which twenty-four Indians were killed and ten wounded; and since that time, although the whole force has been constantly in the saddle, no Indians have been found. These facts speak volumes in praise of the efficiency of this gallant and untiring body of men, and of the energy and ability of their commander, when it is remembered, that since December, 1874, the battalion has not averaged over 175 men and officers, all told, and that the field of their operations extends from the head of the Nueces to the mouth of Pease river, on Red River, a distance of 400 miles, and an average width on that line of fifty miles. In addition to this arduous labor, valuable service has been performed by this force in break-

ing up the bands of thieves and law breakers, and arresting fugitive criminals congregated on the frontier, and in preserving the peace by preventing collision with armed parties, when the civil authorities were unable to maintain the law unaided.

To the able and vigorous administration and management of the Federal forces in Texas, by General Ord, their commander, the State is also much indebted for the peaceful condition of the frontier, while his earnest co-operation with the State authorities, and just and careful deference to them on all matters within their proper jurisdiction, has established the most pleasant and harmonious relations between the State government and the military authorities of the United States. The reports of Adjutant General Steele and Major Jones, herewith furnished, give in detail the operations, and their results, of the State troops during the past year, together with a full exhibit of the cost of maintaining them. Instructions have been given to Major Jones to reduce his force to the lowest prudent limit, and unless some unforeseen emergency arises, the appropriation for the current fiscal year, \$150,000, will be ample. I recommend that a small force be continued on the frontier, for the maintenance of that sense of security against the depredations of both Indians and white outlaws, which the rangers alone have ever given, and which is absolutely necessary to the settlement and development of that country, and, in some localities, to the supremacy of the law, and the preservation of social order.

RIO GRANDE BORDER TROUBLES.

Since the last session of the Legislature, the depredations of Mexican robbers upon the persons and property of citizens of Texas, residing on the east side of the Rio Grande river, have continued almost without interruption and with increasing boldness and audacity. Human life and the rights of property have alike been disregarded in the invasions of these robbers, and murder, robbery and conflagration have marked the track of their raids. The energies of that country are paralyzed, its commerce well nigh destroyed, its wealth reduced to a small per cent. of what it once was, and the people have been living under a reign of terror. Responding to their repeated appeals for aid, and with hope of giving partial relief, on the first day of April, 1875, Captain McNelly, with a company numbering forty-eight non-commissioned officers and privates, and one Lieutenant, was sent to the lower Rio Grande, with orders to scout so much of the country as was practicable with his force, and pursue and punish the marauders. The activity and gallantry of the men, under the lead of their enterprising and daring commander, have done all for the protection of that country that could be accomplished by so small a force, and have, in a great measure, checked the incursions of the robbers in the localities covered by their movements, but the length of the exposed line and the interior extent of the country subject to their raids is so great that so small a force makes but little impression.

The efficiency of this force has been much increased by the cordial co-operation of General Ord, and the officers of the United States under his command stationed on that border.

Deeming it important that information should be obtained as to the condition of affairs on the Rio Grande, in the reliability of which all

would concur, Adjutant General Steele, in May, 1875, accompanied by Hon. Jos. E. Dwyer, a distinguished and public spirited citizen of San Antonio, who, at my request, went to assist him, was sent under instructions to investigate on the ground and report the cause and extent of the disturbances and troubles in the country between the Nueces and Rio Grande rivers. This service was satisfactorily performed, and the interesting report of these gentlemen, containing a mass of testimony and embodying their conclusions, is herewith submitted and commended to your attention. This report fully confirms the worst accounts of the sufferings of that country from Mexican spoliation that had previously been heard from it, as well as complicity of prominent Mexican officials with the robbers in their depredations; and shows very plainly that no hope can be reasonably entertained of any better condition of affairs there as long as the Rio Grande remains the limit beyond which pursuit cannot be made of the robbers. The deplorable condition of that country, the constant destruction of its wealth, the insecurity of life as well as property, and its threatened depopulation, all resulting from causes with which the Federal Government alone can deal, has time and again, and in every possible shape, been laid before the Government at Washington, and up to this time without any satisfactory result. Memorials of the Fourteenth Legislature, and of the late Constitutional Convention, asking for the defense of the border and for protection of the lives and property of citizens residing there, setting forth truthfully the destruction to every interest in that country by the predatory war, now and for years past, waged against it by Mexican citizens, are now before the Congress of the United States, supported by abundant proofs. What the result of the discussion over it will be, and what, if any, action will be taken by the government, it is impossible for me to say. There can be no two opinions as to what *ought* to be done. That the country should be defended and peace and security for the future assured at any cost or hazard, and our people be indemnified for their past losses, there can be no question. It is only left us to hope that the clear obligation of the government to defend that border will be recognized and acted on; that no consideration of party policy or expediency will be allowed to outweigh the duty of the government and the rights of our State and people; and that this appeal may bring relief. If the general government shall again fail to give the relief so much needed, I see no other alternative than for the Legislature to provide for continuing in the field the company of rangers now on the Rio Grande, and so recommend; and in view of contingencies that may arise believe that the Executive should be invested with power to increase the force.

Your honorable bodies are referred to the report of Adjutant General Steele for a statement of the operations and services of Capt. McNelly's company, and of the cost of maintaining it, for which appropriation should be made.

IRRIGATION.

Your attention is requested to an act approved March 10th, 1875, for the encouragement of irrigation. The subject is one of great importance to a large portion of Western Texas, and deserves and should receive earnest consideration at your hands.

Much interest is being manifested, and a great deal of enterprise with considerable capital in the West is being directed towards utilizing their abundant streams of water for agricultural purposes.

The importance of encouraging enterprise in this direction cannot be over-estimated. The country is wonderfully productive under irrigation, and is traversed by unfailing streams of water, which when utilized will give an ample agricultural basis to that magnificent grazing region, making it in all respects self-supporting, and enhancing greatly the profits of its great stock-raising interests; while inducing immigration to and settlement of the country. The interest recently awakened on this subject has been much stimulated by the act above referred to, and my purpose in calling attention to this law is to recommend such amendments as will make it effective; and while encouraging irrigation will protect the interests of the State. The law is too vague and indefinite, and leaves too much to the discretion of those appointed to execute it. No provision is made for the payment of the Inspectors who examine the ditches, and in making such appointments the Executive is compelled to require the parties applying for appointments of the Inspector to pay for the service; to which there is no objection, except that the Inspector is thus, to a certain extent, for his fees, made to depend on the favor of those claiming the bounty of the State, when he should be entirely independent and unembarrassed by any considerations which might affect his strict impartiality. The sections of country in which the benefits of this law are for the most part sought are remote, inaccessible and sparsely settled, and cannot be reached without considerable expense, rendering frauds upon the State easy of perpetration, unless the Executive can command the services of a vigilant, honest and impartial officer, who at the same time is a competent engineer, to inspect the work and determine whether it is done in compliance with the law. The land subsidy paid by the State is believed to be nearly or quite double what it should be, and I recommend that it be reduced, so that the irrigation of land, rather than obtaining land certificates from the State, shall be the primary object of all who hereafter seek the benefits of this law, which is not believed to have been uniformly the case up to this time. The law is so indefinite as to be extremely embarrassing to those charged with its execution, in failing to define with sufficient certainty the character of ditches or canals for which the subsidy may be granted. It is true the dimensions of the different classes of canals and ditches are designated, but whether these are main ditches or lateral ones, and whether only the former or both claim the subsidy, is not to be ascertained from the law. I do not believe that other than the main leading ditches ought to be entitled to the subsidy, and have so construed the law in acting under it; but the act should be cleared of any ambiguity on the subject.

The subject is a difficult one to embrace properly in all its bearings in a legislative enactment, but it can be done, and is of sufficient importance to claim all the consideration necessary to mature a thorough and systematic law which shall protect the interests of the State against frauds and jobs, and at the same time give substantial aid and encouragement to irrigation. I recommend a repeal of the irrigation law passed at the first session of the Fourteenth Legislature for the benefit of El Paso county. Since the passage of the general law relating to

irrigation, that special law has ceased to be desirable, and should not remain in force.

AGRICULTURAL AND MECHANICAL COLLEGE.

In accordance with the acts of Congress of July 2d, 1862, and of July 22d, 1863, in relation to the establishment of agricultural and mechanical colleges, one hundred and eighty thousand acres of land scrip of the United States was donated by the United States to this State for the endowment of such a college in Texas.

In 1871, this land scrip was sold by the then Secretary of State, by authority of Governor Davis, at eight-seven cents per acre, and the proceeds invested in the seven per cent. gold frontier defense bonds of this State, issued under the act of August 5th, 1870. The amount realized from the sale of this scrip was \$156,600, and the bonds purchased amounted to \$174,000. These bonds, which mature in twenty years, are now in the Treasury of the State, with their coupons attached.

By the terms of the original grant it is, among other things, expressly provided that no portion of the fund, or of the interest on the same, shall ever, under any pretense whatever, be used for the purchase, erection, preservation or repair of any building or buildings. It further provides that the money arising from the sale of the land scrip shall be a perpetual fund, and that if from any cause the principal should be diminished, it becomes the duty of the State to replace it, that the capital of the fund may never be less than it now is. The interest is to be used for the endowment, support and maintenance of at least one college, where the leading object shall be—without, however, excluding other scientific and classical studies, and especially including military tactics—to teach such branches of learning as are related to agriculture and the mechanical arts, in such manner as the Legislature of each State may prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions of life.

In order that Texas might avail herself of this donation in accordance with its terms, suitable buildings had to be erected; and for this purpose, on the 11th of April, 1871, the sum of \$75,000 was appropriated out of the school fund for the erection of suitable college buildings.

The appropriation itself was small, and through mismanagement, or from some other cause, it was not judiciously expended, and on the 2d of April, 1874, \$40,000 more was appropriated for the same purpose; and on the 18th of February, 1875, \$32,000 additional was set apart for finishing the buildings.

These amounts, as will be seen from the report of the commissioners, that will accompany this, were not sufficient, and a further amount being needed, this matter came under the consideration of the late Constitutional Convention, and Article III., Section 48, of that instrument provides that the Legislature shall have express power to levy taxes for the maintenance and support of the Agricultural and Mechanical College.

Again, in Article VII., Section 13, this institution is made a branch of the University of Texas, and it makes it the express duty of the Legislature to make appropriations to the amount of \$40,000, if necessary, for the construction and completion of the buildings and improvements, and

for providing the furniture necessary to put said college in immediate and successful operation.

On March 9th, 1875, an act was passed to regulate the government of the Agricultural and Mechanical College, and by its terms a Board of Directors was created, composed of the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and six other Directors, chosen by the Legislature from the Congressional districts of the State.

In July, 1875, a meeting of the Board of Directors chosen under this act was held in Bryan, near which point the college is situated. The building was found incomplete, and it was the purpose of the Board to recommend that an appropriation not to exceed \$40,000, be made by the Legislature to complete the building, and until the needed buildings were completed it was not deemed proper to proceed to the selection of a full faculty. The Board, however, concluded to elect a President, and they selected for that position the Hon. Jefferson Davis, who, however, was prevented from accepting it. The Board was confronted at the outset with a question growing out of, and intimately connected with, the organization of the institution, and one of sufficient importance to demand your attention.

On this Board of Directors devolved the duty of making proper regulations as to the admission of students into this institution, and as to the terms of their admission.

No final action was taken by the Board on this subject, but in view of the fixed and unalterable policy of the State, founded upon the best interests of both the white and colored population, that white and colored pupils shall not be mingled in the public schools or colleges, they deemed it best to postpone further consideration of the subject until, by Legislative action, some other provision could be made for colored pupils, and thereby any question as to them avoided.

Appreciating the wisdom and justice of a proper provision for the colored pupils, the late Constitutional Convention, in Section 14 of Article VII, authorizes the erection and maintenance of a branch university for the education of colored youths. Other States of the South, accepting the donation of Congress for the establishment of a college like ours, have made separate provision for the colored youth, and it is recommended that the same be done in Texas. It is desired by the Board of Trustees to put the Bryan college in operation at the beginning of the scholastic year, in the Fall of 1876, and by prompt action the school for colored pupils may commence operations during the ensuing year. Your early action on this general subject is requested, in order that the Board may have sufficient time to mature arrangements for opening the college near Bryan certainly by the first of September next. The college is now complete, as is also the Steward's hall. The appropriation authorized by the Constitution, and the interest on the bonds in which the permanent fund is invested, will be necessary to carry out the designs of the Board of Directors. The report of Hon. Spencer Ford and James H. Raymond, Commissioners, is commended to your attention for information as to the college and other buildings already erected, and buildings and improvements yet desired.

PUBLIC BUILDINGS AND GROUNDS.

The report of Capt. Voigt, custodian of the public grounds and

buildings, is herewith transmitted, and respectfully commended to your attention and consideration.

It will be seen from this report that during the last fiscal year \$17,000.98 have been expended in improvements of the public property, of which amount \$5,000.00 was devoted to the adornment of the Capitol grounds, and the remainder expended on the various public buildings.

A detailed statement of the disbursement of this money will be found in this report, supported by appropriate vouchers in the Comptroller's office.

The suggestions of Capt. Voigt on the various matters referred to in his report, are respectfully submitted to your consideration.

PUBLIC PROPERTY.

I respectfully recommend the passage of a law requiring the custodian of public buildings and grounds to take possession of all old or disused personal property belonging to the State, and of any other personal property of the State for which there may be no present use; and that a board, to consist of some of the department officers, be authorized, whenever they may deem it to the interest of the State to do so, to make sale of such property and pay the proceeds into the treasury. Several thousand dollars may probably be realized for such property now on hand; and as it is constantly accumulating, there should be a standing provision for disposing of it.

ATTORNEY-GENERAL'S REPORT.

The able and interesting report of Attorney-General Clark is herewith transmitted and commended to your earnest consideration. It will be especially valuable in your deliberations upon the re-organization of our judicial system, especially that portion of it relating to the administration of the criminal law, containing as it does many suggestions of improvement, both in the penal laws and Code of Procedure, which I am satisfied will commend themselves highly to your judgment as wise and judicious. The retirement of this officer from the public service, presents a fitting occasion for an acknowledgment of the ability, energy and fidelity with which he has discharged the extremely onerous duties of that office. The interests of the State, and they have been of the first magnitude, which have been in the care of that department, have, in his hands, been upheld with great ability, learning and labor, as the records of the courts and of that office abundantly show, while the system and method with which the office has been administered and its multifarious duties discharged, have been admirable.

Gen. Clark leaves in the Attorney General's office enduring testimonials to his efficiency and fidelity as a public servant.

STATE GEOLOGIST.

The report of Mr. Buckley, the State Geologist, was sent in a few days ago, and immediately sent to the State Printer. The late day on which the report was made leaves no time for its examination after it shall have been printed. It will be laid before you when received.

The utility of the office of State Geologist, until we are in condition to make explorations of the State on a much more extensive scale than is now undertaken, is extremely questionable. The territorial extent of the State is so great, and the amount we are able to expend now for this purpose is so small, that I believe it the better policy to discontinue operations in this branch of the service until we shall be able to make them more effective, and save the small amount which seems now uselessly expended. I therefore recommend that no further appropriation be made for the support of this office.

THE CENTENNIAL CELEBRATION.

The commemoration of the hundredth anniversary of American independence, and exhibition of the progress of the arts and sciences, and of the evidences of development of the material resources of the country, to commence in the city of Philadelphia, in May next, under the auspices of the general government, is attracting much attention, and is properly regarded as a fitting occasion for a renewal in the hearts of the people of that love of country and devotion to our republican institutions which one hundred years ago laid the foundation of the grand progress we now so proudly contemplate.

The perpetuity of the Union, and of the principles of free government upon which it rests, must ever depend upon the enlightened patriotism of the great mass of the American people, and a frequent recurrence to and contemplation of the mighty conflict of intellect and arms and the sacrifice of blood and treasure through which our liberties were achieved.

The great exhibition at Philadelphia, while carrying the popular mind back to the struggles of the fathers and the principles they pledged their lives and fortunes and sacred honor to maintain, will inspire it with renewed devotion, and a rekindled enthusiasm for the preservation in their purity of the institutions under whose inspiration such splendid results have been achieved in one century of the national existence.

The two sections of country lately estranged will find revealed there, in a joint and glorious history, common memories and traditions, and mutual and dependent present and future interests, much to heal dissension, remove acrimony, inculcate respect, charity and forbearance for each other, to add to the existing bonds of union the ties of fraternal popular feeling.

It is believed to be the suggestion of policy, no less than of sincere, honest patriotism, that the people of the South shall by all proper means in their power—being joint heirs by inheritance from their fathers with their brethren of other sections, having equal right and title with them in the glory and greatness of our whole country, and an equal interest in the preservation of free government and the kindling anew of the fires of patriotism on a common altar by the people of all the sections—show their sympathy for the purposes of this grand reunion, and participate in it to the extent that they are able.

The powers of the Legislature are not believed, under the new Constitution, to authorize an appropriation of public money for defraying the expense of representing the State at the Centennial celebration, but there may probably be other modes in which the sympathies of the

people with the occasion may be given expression, and military and other organizations of our citizens encouraged to attend; and if there be, the Executive will zealously co-operate with the Legislative department in any appropriate action having that purpose in view.

In response to an invitation from the proper authorities at Philadelphia to appoint an orator, who, on a day set apart for the occasion, will deliver an address on the history, resources and capabilities of Texas, embracing all her material interests and industries, the Hon. Richard B. Hubbard, of Smith county, has been appointed and will represent the State on that occasion. The intimate acquaintance of this distinguished gentleman with this subject, his great intelligence and powers of oratory, are a sufficient guaranty of the safety of the interests of the State in his keeping.

A few weeks since, Hon. A. M. Hobby, of Galveston, and J. W. Jennings, of Grayson county, public spirited and energetic gentlemen, were appointed by his Excellency, the President, to represent the State of Texas on the board of Centennial Commissioners.

CONCLUSION.

Having necessarily omitted any mention of many subjects of general public interest in this communication, and referred in very general terms to others, the assurance is tendered you of a deep interest by the Executive in all that will engage the attention of your honorable bodies, and an earnest purpose by all means in his power to advance and aid your efforts in the arduous public service in which you are engaged. Fully conscious of the cordial co-operation necessary between the two departments, to a harmonious discharge of their proper constitutional functions, and of the grave necessity to the Executive of your wise counsels and friendly support in order to a successful execution of his high trust, it will be his aim on all occasions to promote the efficiency of our joint labors by being ever mindful of these important considerations. The various and sometimes diverse interests of a great State, equally challenging the fostering care and attention of the government, are for the time being in our keeping; but animated, as I trust and believe we are, by a spirit of patriotic devotion to the advancement and progress and welfare of the whole people, the highest confidence is felt that such antagonisms as may abide in your deliberations, will yield to the paramount demands of the public interest for such concession and compromise as will secure harmonious and united action.

Relying firmly upon this conviction, an ardent hope is indulged that the labors of the session will subserve the best interests of the State; and, meriting, will receive the approbation of the people.

Very respectfully,

RICHARD COKE.

During the reading of the message, Senator McCulloch moved to suspend the further reading of the same, and that 5000 copies be ordered printed.

Carried.

On motion of Senator Piner, the Senate adjourned until 10 o'clock A. M. to-morrow.